



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, मंगलवार, 23 सितम्बर, 2014 / 1 आश्विन, 1936

हिमाचल प्रदेश सरकार

HIGH COURT OF HIMACHAL PRADESH AT SHIMLA-171001

NOTIFICATION

Shimla, the 20th September, 2014

No. HHC/GAZ/14-192/88-II.—Hon'ble the Chief Justice has been pleased to grant ex-post facto sanction of 12 days earned leave w.e.f. 19.8.2014 to 30.8.2014 with permission to prefix Sunday and gazetted holiday fell on 17.8.2014 & 18.8.2014 and to suffix Sunday fell on 31.8.2014 in favour of Shri Purender Vaidya, District and Sessions Judge, Kullu, H.P.

Certified that Shri Purender Vaidya had joined the same post and at the same station from where he proceeded on leave, after expiry of the above period of leave.

Also certified that Shri Purender Vaidya would have continued to hold the post of District and Sessions Judge, Kullu, H.P., but for his proceeding on leave for the above period.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171001

NOTIFICATION

Shimla, the 20th September, 2014

No. HHC/Admn.6 (23)/74-XV.—Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2 (32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare Civil Judge (Sr. Division)-cum-ACJM, Rampur, H.P. as Drawing and Disbursing Officer in respect of the Court of Civil Judge (Jr. Division)-cum-JM, Anni and also the Controlling Officer for the purpose of salary, T.A. etc. in respect of establishment attached to the aforesaid Court under Major Head "2014-Administration of Justice" during the earned leave period of Sh. Nishant Verma, Civil Judge (Jr. Division)-cum-JM, Anni w.e.f. 22.9.2014 to 27.9.2014 with permission suffix Sunday & Dussehra holidays falling w.e.f. 28.9.2014 to 5.10.2014 or until he returns from leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH AT SHIMLA-171001

NOTIFICATION

Shimla, the 20th September, 2014

No. HHC/GAZ/14-196/89-III.—Hon'ble the Chief Justice has been pleased to grant *ex-post facto* sanction of 01 day's earned leave for 15.5.2014 and 33 days' commuted leave w.e.f. 16.5.2014 to 17.6.2014 in favour of Shri K.K. Sharma, Additional District and Sessions Judge (I), Kangra at Dharamshala, H.P.

Certified that Shri K.K. Sharma had joined the same post and at the same station from where he proceeded on leave, after expiry of the above period of leave.

Also certified that Shri K.K. Sharma would have continued to hold the post of Additional District and Sessions Judge (I), Kangra at Dharamshala, H.P., but for his proceeding on leave for the above period.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH AT SHIMLA-171001

NOTIFICATION

Shimla, the 20th September, 2014

No.HHC/GAZ/14-196/89-III.—Hon'ble the Chief Justice has been pleased to grant *ex-post facto* sanction of 01 day's commuted leave for 4.7.2014 in favour of Shri K.K. Sharma, Additional District and Sessions Judge (I), Kangra at Dharamshala, H.P.

Certified that Shri K.K. Sharma had joined the same post and at the same station from where he proceeded on leave, after expiry of the above period of leave.

Also certified that Shri K.K. Sharma would have continued to hold the post of Additional District and Sessions Judge (I), Kangra at Dharamshala, H.P., but for his proceeding on leave for the above period.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH SHIMLA -171001

NOTIFICATION

Shimla, the 20th September, 2014

No. HHC/GAZ/14-340/2014.—Hon'ble the Chief Justice has been pleased to grant 06 days' earned leave *w.e.f.* 22.09.2014 to 27.09.2014 with permission to suffix Sunday and Dussehra holidays falling *w.e.f.* 28.9.2014 to 5.10.2014 in favor of Sh. Nishant Verma, Civil Judge (Junior Division)-*cum*-JM, Anni, H.P.

Certified that Sh. Nishant Verma is likely to join the same post and at the same station from where he proceeds on leave, after expiry of the above period of leave.

Also certified that Sh. Nishant Verma would have continued to hold the post of Civil Judge (Junior Division)-cum-JM, Anni, H.P., but for his proceeding on leave for the above period.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH SHIMLA -171001

NOTIFICATION

Shimla, the 18th September, 2014

No. HHC/GAZ/14-342/2014.—Hon'ble the Chief Justice has been pleased to grant 06 days' earned leave *w.e.f.* 22.09.2014 to 27.09.2014 with permission to prefix Sunday falling on 21.9.2014 and to suffix Sunday and Dussehra holidays falling *w.e.f.* 28.9.2014 to 5.10.2014 in favour of Ms. Anita Sharma, Civil Judge (Junior Division)-cum-JM, Bilaspur, H.P.

Certified that Ms. Anita Sharma is likely to join the same post and at the same station from where she proceeds on leave, after expiry of the above period of leave.

Also certified that Ms. Anita Sharma would have continued to hold the post of Civil Judge (Junior Division)-cum-JM, Bilaspur, H.P., but for her proceeding on leave for the above period.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA – 171001

NOTIFICATION

Shimla, the 18th September, 2014

No.HHC/Admn.6 (23)/74-XV.—Hon'ble the Chief Justice in exercise of the powers vested in him under Rule 2 (32) of Chapter 1 of H.P. Financial Rules, 2009 has been pleased to declare Civil Judge (Sr. Division)-cum-CJM, Bilaspur, H.P. as Drawing and Disbursing Officer in respect of the Court of Civil Judge (Jr. Division)-cum-JM, Bilaspur and also the Controlling Officer for the purpose of salary, T.A. etc. in respect of establishment attached to the aforesaid Court under Major Head "2014-Administration of Justice" during the earned leave period of Ms. Anita Sharma, Civil Judge (Jr. Division)-cum-JM, Bilaspur *w.e.f.* 22.9.2014 to 27.9.2014 with permission to prefix Sunday falling on 21.9.2014 and to suffix Sunday & Dussehra holidays falling *w.e.f.* 28.9.2014 to 5.10.2014 or until she returns from leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171001**NOTIFICATION***Shimla, the 17th September, 2014*

No. HHC/GAZ/14-305/09.—Hon'ble the Chief Justice has been pleased to grant *ex-post facto* sanction of 08 days' commuted leave *w.e.f.* 27.8.2014 to 3.9.2014 in favour of Sh. Vikrant Kaundal, Civil Judge (Jr. Division)-*cum*-JMJC, Barsar, District Hamirpur, H.P.

Certified that Sh. Vikrant Kaundal has joined the same post and at the same station from where he had proceeded on leave, after expiry of the above period of leave.

Also certified that Sh. Vikrant Kaundal would have continued to hold the post of Civil Judge (Jr. Division)-*cum*-JMJC, Barsar, District Hamirpur, H.P., but for his proceeding on leave for the above period.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171001**NOTIFICATION***Shimla, the 18th September, 2014*

No. HHC/GAZ/14-258/03.—Hon'ble the Chief Justice has been pleased to grant *ex-post facto* sanction of 09 days' commuted leave *w.e.f.* 22.8.2014 to 30.8.2014 with permission to suffix Sunday fell on 31.8.2014 in favour of Sh. Avinash Chander, Civil Judge (Sr. Division)-*cum*-CJM, Hamirpur, H.P.

Certified that Sh. Avinash Chander has joined the same post and at the same station from where he had proceeded on leave, after expiry of the above period of leave.

Also certified that Sh. Avinash Chander would have continued to hold the post of Civil Judge (Sr. Division)-*cum*-CJM, Hamirpur, H.P., but for his proceeding on leave for the above period.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171001**NOTIFICATION***Shimla, the 12th September, 2014*

No. HHC/GAZ/14-306/09.—Hon'ble the Chief Justice has been pleased to grant *ex-post facto* sanction of 07 days' earned leave *w.e.f.* 28.8.2014 to 3.9.2014 in favour of Smt. Neha Kaisth, Civil Judge (Jr. Division)-*cum*-JMJC, Nahan, District Sirmaur, H.P.

Certified that Smt. Neha Kaisth has joined the same post and at the same station from where she had proceeded on leave, after expiry of the above period of leave.

Also certified that Smt. Neha Kaisth would have continued to hold the post of Civil Judge (Jr. Division)-*cum*-JMJC, Nahan, District Sirmaur, H.P., but for her proceeding on leave for the above period.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171001**NOTIFICATION***Shimla, the 19th September, 2014*

No.HHC/Estt.3(509)/2000.—11 days earned leave on and *w.e.f.* 16.09.2014 to 26.09.2014, is hereby sanctioned, *ex-post-facto*, in favour of Shri Subhash Chand Sharma, Secretary of this Registry.

Certified that Shri Subhash Chand Sharma has joined the same same post and at the same station from where he had proceeded on leave after the expiry of the above leave period.

Certified that Shri Subhash Chand Sharma would have continued to officiate the same post of Secretary but for his proceeding on above leave.

By order,
Sd/-
Registrar General.

HIGH COURT OF HIMACHAL PRADESH, SHIMLA-171001**NOTIFICATION***Shimla, the 17th September, 2014*

No. HHC/Admn.3(331)/92-I.—03 days earned leave on and *w.e.f.* 03.09.2014 to 05.09.2014, is hereby sanctioned, *ex-post-facto*, in favour of Shri Davinder Chopra, Deputy Registrar, of this Registry.

Certified that Shri Davinder Chopra has joined the same post and at the same station from where he had proceeded on leave after the expiry of the above leave period.

Certified that Shri Davinder Chopra would have continued to officiate the same post of Deputy Registrar but for his proceeding on above leave.

By order,
Sd/-
Registrar General.

LABOUR AND EMPLOYMENT DEPARTMENT**NOTIFICATION***Shimla-2, the 18th September, 2014*

No. Sharm (A) 7-1/2005-Part-File-1.—In exercise of the powers vested under section 17(1) of the Industrial Disputes Act, 1947, the Governor Himachal Pradesh is pleased to order the publication of awards of the following cases announced by the Presiding Officer, Labour Court Shimla on the website of the Department of Labour & Employment of the Government of Himachal Pradesh.

Sl. No.	Case No:	Title of the Case	Date of Award
1.	94/2013	S/Shri Manjeet Singh V/s M/S Selvopet P/Sahib.	2/7/2014
2.	95/2013	Sh. Mukesh Kumar V/s -do-	2/7/2014
3.	04/2014	Sh. Pravesh Kumar V/S -do-	2/7/2014
4.	15/2014	Sh. Surinder Attri V/S M/S GVK EMRI, Solan	7/7/2014
5.	50/2014	Sh. Lekh Raj V/S M/S Merco Ltd.	30-07-2014
6.	51/2014	Sh. Sunil Kumar V/s -do-	30-07-2014
7.	28/2008	Sh. Jagdish Chand V/s M.D. M/S Orbit International Parwanoo.	9/7/2014

Sl. No.	Case No:	Title of the Case	Date of Award
8.	102/2009	Sh. Ramesh Chand V/S M/S Winsom Textile Baddi.	9/7/2014
9.	92/2009	Sh. Basant Lal V/s Public Administration Shimla.	31-07-2014
10.	90/2009	Sh. Mean Chand V/s -do-	31-07-2014
11.	43/2007	Sh. Pritam Singh V/s M/s Him Builders.	17-07-2014
12.	179/2006	Sh. Karnail Singh V/s -do-	17-07-2014
13.	Jan-07	Sh. Rakesh Kumar V/s -do-	17-07-2014

By order,
(R.D.DHIMAN),
Pr.Secretary (Labour & Employment) .

Manjeet Singh Vs. M/s Solvopt, P/Sahib.

2.7.2014

Present: Shri J.C Bhardwaj, AR for petitioner.
Shri Aman Sood, Advocate for respondent.

For today, this case is fixed for filing statement of claim as last opportunity. Shri J.C Bhardwaj, AR for the petitioner stated that despite having been informed, the petitioner has not turned up.

For the failure of the petitioner to file statement of claim, I have been left with no other alternative but to decide this reference on the basis of material, whichever, is available before this Court. The reference, which has been made to this Court, is as under:

“Whether termination of the services of Shri Manjeet Singh S/O late Shri Sadhu Ram R/o Village Singhpura, P.O Bhagani, Tehsil Paonta Sahib, District Sirmour, HP w.e.f. 29-12 2011 by the employer/Factory Manager M/s solvopt Plot # 98, Gondpur Industrial Area Village Nihalgarh, Paonta Sahib, District Sirmour, HP (factory office) and the employer M/s Solvopt, R-304, Dua Complex 24, Veer Savrkar Block, Vikas Marg, Shakarpur, Dehli 110092 (Corporate office), without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

Although, the petitioner has put his presence, before this Court, through Shri J.C Bhardwaj, AR but despite having been afforded many opportunities, statement of claim has not been filed. This clearly goes to show that the petitioner is not interested to pursue with his claim as is the subject matter of this reference, made to this Court. As per the reference, the petitioner has alleged his termination w.e.f. 29.12.2011, by the respondent to be illegal and unjustified. In support of his such assertion, neither he has filed any statement of claim nor produced any document. Thus, on

the basis of material, which is available before this Court, I hold that the petitioner has failed to establish that his services had been illegally terminated by the respondent. Be it reiterated that in arriving at this conclusion, this Court has also taken note of this fact that despite having been afforded opportunities, the petitioner has neither filed any statement of claim nor put his presence despite having been informed by his AR (Shri J.C Bhardwaj).

Consequently, for what has been stated and observed above, this reference is decided against the petitioner and in favour of the respondent. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:

02/07/2014

Sd/-

*Presiding Judge,
Labour Court, Shimla.*

Mukesh Kumar Vs. M/s Solvopt, P/Sahib.

2.7.2014

Present: Shri J.C Bhardwaj, AR for petitioner.
Shri Aman Sood, Advocate for respondent.

For today, this case is fixed for filing statement of claim as last opportunity. Shri J.C Bhardwaj, AR for the petitioner stated that despite having been informed, the petitioner has not turned up.

For the failure of the petitioner to file statement of claim, I have been left with no other alternative but to decide this reference on the basis of material, whichever, is available before this Court. The reference, which has been made to this Court, is as under:

“Whether termination of the services of Shri Mukesh Kumar Tyagi S/O Shri Sita Ram R/o Village Pagar, P.O Rajpur, Tehsil Paonta Sahib, District Sirmour, HP w.e.f. 30.12.2011 (as alleged by the worker) by the employer/Factory Manager M/s solvopt Plot # 98, Gondpur Industrial Area Village Nihalgarh, Paonta Sahib, District Sirmour, HP (present office) and the employer M/s Solvopt, R-304, Dua Complex 24, Veer Savrkar Block, Vikas Marg, Shakarpur, Dehli 110092 (Corporate office), without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

Although, the petitioner has put his presence, before this Court, through Shri J.C Bhardwaj, AR but despite having been afforded many opportunities, statement of claim has not been filed. This clearly goes to show that the petitioner is not interested to pursue with his claim as is the subject matter of this reference, made to this Court. As per the reference, the petitioner has alleged his termination w.e.f. 29.12.2011, by the respondent to be illegal and unjustified. In support of his such assertion, neither he has filed any statement of claim nor produced any document. Thus, on the basis of material, which is available before this Court, I hold that the petitioner has failed to establish that his services had been illegally terminated by the respondent. Be it reiterated that in arriving at this conclusion, this Court has also taken note of this fact that despite having been

afforded opportunities, the petitioner has neither filed any statement of claim nor put his presence despite having been informed by his AR (Shri J.C Bhardwaj).

Consequently, for what has been stated and observed above, this reference is decided against the petitioner and in favour of the respondent. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
02/07/2014

Sd/-
Presiding Judge,
Labour Court, Shimla.

Parvesh Kumar Vs. M/s Solvopt, P/Sahib.

2.7.2014

Present: Shri J.C Bhardwaj, AR for petitioner.
Shri Aman Sood, Advocate for respondent.

For today, this case is fixed for filing statement of claim as last opportunity. Shri J.C Bhardwaj, AR for the petitioner stated that despite having been informed, the petitioner has not turned up.

For the failure of the petitioner to file statement of claim, I have been left with no other alternative but to decide this reference on the basis of material, whichever, is available before this Court. The reference, which has been made to this Court, is as under:

“Whether termination of the services of Shri Parvesh Kumar R/o Village Pagar, P.O Rajpur, Tehsil Paonta Sahib, District Sirmour, HP w.e.f. 7.4.2012 (as alleged by the worker) by the employer M/s solvopt Plot # 98, Gondpur Industrial Area Village Nihalgarh, Paonta Sahib, District Sirmour, HP (factory office) and the employer M/s Solvopt, R- 304, Dua Complex 24, Veer Savrkar Block, Vikas Marg, Shakarpur, Dehli 110092 (Corporate office), without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what amount of back wages, seniority, past service benefits and compensation the above worker is entitled to from the above employer?”

Although, the petitioner has put his presence, before this Court, through Shri J.C Bhardwaj, AR but despite having been afforded many opportunities, statement of claim has not been filed. This clearly goes to show that the petitioner is not interested to pursue with his claim as is the subject matter of this reference, made to this Court. As per the reference, the petitioner has alleged his termination w.e.f. 29.12.2011, by the respondent to be illegal and unjustified. In support of his such assertion, neither he has filed any statement of claim nor produced any document. Thus, on the basis of material, which is available before this Court, I hold that the petitioner has failed to establish that his services had been illegally terminated by the respondent. Be it reiterated that in arriving at this conclusion, this Court has also taken note of this fact that despite having been afforded opportunities, the petitioner has neither filed any statement of claim nor put his presence despite having been informed by his AR (Shri J.C Bhardwaj).

Consequently, for what has been stated and observed above, this reference is decided against the petitioner and in favour of the respondent. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
02/07/2014

Sd/-
Presiding Judge,
Labour Court, Shimla.

Sh Surrender Attri V/s M/s GVK EMR & others

It is 2:15 PM. Case called again.

7.7.2014

Present: None for the petitioner.
Shri Rajat Sharma, Advocate for respondent no.2.
Shri C.M Sharma, Advocate for respondent no.3.

On behalf of respondent no.1, Sh. Rajat Sharma, Advocate, has filed memo of appearance.

Although, the petitioner has been served through registered post with A.D but he has not appeared, either in person or through counsel. Be stated that since 1.4.2014, this case has been fixed for the service of the parties. Since, petitioner, on having been served, personally, has not appeared before this Court. This clearly goes to show that he is not interested to pursue with his case, which is the subject matter of the reference, made to this Court, by the appropriate government. In these circumstances, I have been left with no other alternative but to proceed to decide the reference on the basis of the material, whichever, is available before this Court. The reference, made to this Court, is as under:

“Whether termination of the services of Shri Surrender Attri, S/O Shri ParkashAttri, R/o. V.P.O Garkhal, Tehsil Kassuli, District Solan, H.P. who was employed, w.e.f. 21-10-2012, by the Employer/Manger, i) M/S GVM EMRI, J.P. Motors Building, Village Anji, Barog Bye Pass Solan, District Solan, H.P (Work Office) ii) M/S Adecco India Private Limited, C-127, Basement Level, SatguruInfotech, Phase VII, Industrial Area Mohali, (Area Office) and iii) M/S Adecco India Private Limited, No.2 NAL Wind Tunnel Road, Murugeshpalya, Bangalore, (Corporate Office), without complying the provisions of the Industrial Disputes Act, 1947 is legal and justified? If not, what amount of back wages, seniority, past service benefits and from which date the above worker is entitled to from the above employer. ?”

From the reference, aforesaid, it is revealed that the petitioner has assailed his termination w.e.f. 21.10.2012, to be illegal and unjustified. However, when he was issued notice by this Court to appear, he chose not to appear despite having been served, personally, through registered post, the AD of which has been received in this Court. Thus, there is no material, whatsoever, produced by the petitioner which could go to show that his termination from services w.e.f. 21.12.2010, is illegal and unjustified.

Consequently, for what has been stated and observed above, I hold that the petitioner has failed to prove his case and accordingly, this reference is decided against him and in favour of the respondent. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced:
07/07/2014

Sd/-
Presiding Judge
Labour Court, Shimla.

Ref 50/2014

Sh Lekh Raj v/s M/s Mario ltd and others
30/7/2014

Present.— None for the Petitioner.

Sh. Tarsem Singh, HR Executive for the M/s Amey plastics, ltd.(, Respondent -1)

Sh. Nijil George, Factory manager, M/s Marico Ltd., (respondent no-2)

Sh. Tarsem Singh has produced his authority letter on behalf of respondent No.1 Hehas stated before this court that already a compromise/settlement has taken place between the parties. In support of his such version, he has also filed memorandum of settlement. Apart from this, a reply has also been filed on behalf of respondent no-1.

Sh. Nijil George, factory Manager for respondent no.2 (M/s Marico ltd.) has stated that as far as respondent no.2 is concerned, it has nothing to do with the matter in dispute.

On having considered the version, made at bar, by Shri Tarsem Singh, HR Executive for respondent No.1 it appears to this court that a compromise/settlement has already been effected between the parties. The wage slips of the petitioner, which have been produced before this court, further go to substantiate such assertion of Sh. Tarsem Singh.

Although, notice has also been issued to the petitioner but the same has not been received, in this court, either served or un-served. The last wage slip, which has been filed before this court, in respect of petitioner (Lekh Raj) pertains to the month of June, 2014. The petitioner could have joined with respondent no.1 only if some compromise/settlement had taken place between the parties. Having regard to the documents, which have been brought before this court, I am of the view that no useful purpose is likely to be served by issuing another notice to the petitioner in order to appear before this court. Thus, I proceed to record the statements of Sh. Tarsem Singh, HR Executive for respondent no.1 and Sh. Nijil George, Factory Manager, for respondent No.-2 which are recorded accordingly.

From the statement of Sh. Tarsem Singh, HR Executive for respondent no.1 and the documents which have been produced before this court, I am satisfied that a lawful compromise/settlement has been effected between the parties (Lekh Raj and M/s Amey Plastic ltd.) out of court. The reference, made to this court, is as under:

“Whether termination of services of Sh. Lekh Raj S/o Sh. Sewa Singh R/o village & P.O Haripur, Tehsil Paonta Sahib, District Sirmour, HP by the (1) Manager/Employer M/s Amey Plastics Contractor of M/s Marico Ltd., Village Tolyon

P.O Dhaula kaun, Tehsil Paonta Sahib District Sirmour, HP (contractor) (2) The Manager/employer, M/s Marico Ltd, village tolyon P.O Dhaula kuan, Tehsil Paonta Sahib District Sirmour, HP (Principle employer) w.e.f. 15/12/2012 without following the provisions of the Industrial Disputes Act, 1947, is legal and justifies? If not, what amount of back wages seniority, past service benefits and compensation the above ex-worker is entitled to form the above employer?

Since, the matter stands already settled/compromised between the petitioner and respondent no. 1, this reference is require to be answered accordingly as compromised. The statement of Sh. Tarsem singh, HR Executive for respondent No. 1 and Sh. Nijil George, Factor manager, for respondent no.2 along with documents Ex. RB(memorandum of settlement) and wage slips of the petitioner Ex. RC to RL, shall remain part and parcel of this order/award. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced
30/7/2014

Sd/-
*Presiding Judge,
Labour court Shimla.*

Ref 51/2014

Sh Sunil KumarV/s M/s Mario ltd and others

30/7/2014

Present.— None for the Petitioner.

Sh. Tarsem Singh, HR Executive for the M/s Amey plastics, ltd.(, Respondent -1)

Sh. Nijil George, Factory manager, M/s Marico Ltd., (respondent no-2)

Sh. Tarsem Singh has produced his authority letter on behalf of respondent No.1 Hehas stated before this court that already a compromise/settlement has taken place between the parties. In support of his such version, he has also filed memorandum of settlement. Apart from this, a reply has also been filed on behalf of respondent no-1

Sh. Nijil George, factory Manager for respondent no.2 (M/s Marico ltd.) has stated that as far as respondent no.2 is concerned, it has nothing to do with the matter in dispute.

On having considered the version, made at bar, by Shri Tarsem Singh, HR Executive for respondent No.1 it appears to this court that a compromise/settlement has already been effected between the parties. The wage slips of the petitioner, which have been produced before this court, further go to substantiate such assertion of Sh. Tarsem Singh.

Although, notice has also been issued to the petitioner but the same has not been received, in this court, either served or un-served. The last wage slip, which has been filed before this court, in respect of petitioner (Sunil Kumar) pertains to the month of June, 2014. The petitioner could have joined with respondent no.1 only if some compromise/settlement had taken place between the parties. Having regard to the documents, which have been brought before this court, I am of the view that no useful purpose is likely to be served by issuing another notice to the petitioner in order

to appear before this court. Thus, I proceed to record the statements of Sh. Tarsem Singh, HR Executive for respondent no.1 and sh. Nijil George, Factory Manager, for respondent No.-2 which are recorded accordingly.

From the statement of Sh. Tarsem Singh, HR Executive for respondent no.1 and the documents which have been produced before this court, I am satisfied that a lawful compromise/settlement has been effected between the parties(Sunil Kumar and M/s Ameya Plastic ltd.) our of court. The reference, made to this court, is as under:

“Whether termination of services of Sh. Sunil kumar S/o Sh. Rangeel Singh R/o village & P.O Haripur, Tehsil Paonta Sahib, District Sirmour, HP by the (1) Manager/Employer M/s Ameya Plastics Contractor of M/s marico Ltd., Village Tolyon P.O Dhaula kaun, Tehsil Paonta Sahib District Sirmour, HP (contractor) (2) The Manager/employer, M/s Marico Ltd, village tolyon P.O Dhaula kuan, Tehsil Paonta Sahib District Sirmour, HP (Principle employer) w.e.f. 15/12/2012 without following the provisions of the Industrial Disputes Act, 1947, is legal and justifies? If not, what amount of back wages seniority, past service benefits and compensation the above ex-worker is entitled to form the above employer?”

Since, the matter stands already settled/compromised between the petitioner and respondent no. 1, this reference is require to be answered accordingly as compromised. The statement of Sh. Tarsem singh, HR Executive for respondent No. 1 and Sh. Nijil George, Factor manager, for respondent no.2 along with documents Ex. RB(memorandum of settlement) and wage slips of the petitioner Ex. RC to RL, shall remain part and parcel of this order/award. Let a copy of this order/award be sent to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced
30/7/2014

Sd/-
*Presiding Judge,
Labour court Shimla.*

**IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA.**

Ref no. 28 of 2008.

Instituted on 5.6.2008.

Decided on 9.7.2014.

1. Jagdish ChandS/o Shri Ram Nath.
2. Laiq Ram S/o Shri Mohan Lal.
3. Happy Thakur S/o Shri Pat Ram.
4. Jagdish S/o Shri Hari Singh.
5. Ramesh S/o Shri Jai Krishan.
6. Ravinder Kumar S/o Kishan Chand.
7. Uma Dutt S/o Shro Sobha Ram.
8. Sanjeev Kumar s/o Shri Pritam Singh.

9. Jaswinder Kumar S/o Shri Jai Gopal.
10. Guru Dev Singh Shri Balwant singh.
11. Ranjeet Singh S/o Shri Gopal Singh.
12. Ranjeet Singh S/o Shri Bala Ram.
13. Chaman Lal S/o Shri Bala Ram.
14. Ravi Shankar S/o Dev Raj.
15. Kuldeep Kumar S/o Shri Ram Krishan.
16. Mehender Kumar S/o Shri Ram Lal.
17. Pushvender Kumar S/o Ram Lal.
18. Shyam Lal S/o Shri Mantu Ram.
19. Rajinder Kumar S/o Shri Geeta Ram.
20. Praveen Kumar S/o Shri Jagdish Chand.
21. Ramesh Thakur S/o Shri Gopal Singh.
22. Shri Ram S/o Shri Paras Ram
23. Pradeep Kumar S/o Shri Madan Lal Thaklur.

All C/o Shri Happy Thakur, Village Ambota, P.O Taksal, Parwanoo, District Solan, HP.

. .Petitioners.

VS.

The Managing Director, M/s Orbit International Parwanoo, Sector-5, District Solan, HP.

. .Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner: Shri Niranjana Verma, Advocate.

For respondent: Shri Rahul Mahajan, Advocate.

AWARD

The reference for adjudication, is as under:

“Whether termination of services of Shri Happy Thakur & 22 other workers (copy enclosed) by the Management of M/s Orbit International, 58, Industrial Area, Sector-5, Parwanoo, District Solan without complying with the provisions of Industrial Disputes Act, 1947, is proper and justified? If not, what relief of service benefits, seniority, compensation the aggrieved workmen is entitled to? ”

2. Briefly, the case of the petitioners is that they were engaged by the respondent in the year, 2005-06 and continuously worked till 23.12.2006, when their services were terminated. In fact, they along-with other workmen, had submitted a demand charter dated 23.12.2006, to the management regarding their lawful demands but instead of accepting the same, their services were terminated. Again, they submitted a supplementary demand charter, on 27.1.2007, but all in vain. Although, they had been presenting themselves, every day, at the gate of the factory, for their demands, but they were not allowed to enter the factory in order to do any work. It is further averred that some of the petitioners had received letters, by post, from the respondent management regarding their being absent from duties but the factual position was that they (petitioners), used to be present at the factory gate, every day, to do their job but they were not allowed by the respondent. Since, they had completed 240 days for being in uninterrupted service with the respondent, their verbal termination from service was against the provisions of Industrial Disputes

Act, 1947 (hereinafter referred as Act), as no notice as well as retrenchment compensation was paid to them. Against this back-drop, a prayer has been made to reinstate them in service with all the consequential benefits.

3. The petition has been contested, on having raised preliminary objections including maintainability and that they have concealed material facts from the Court. On merits, it has been asserted that the services of petitioners Happy Thakur and Ranjet Singh, had been terminated, in accordance with the provisions of the Act, on 22.12.2006 and that they had also refused to receive the termination orders as well as full & final settlements. The same were sent to them though registered post. Except them (Happy Thakur & Ranjit Singh), all the other petitioners failed to turn up to perform their duties w.e.f. 23.12.2006, thus, they abandoned their jobs. It has been specifically denied that the services of the petitioners except Happy Thakur & Ranjit Singh, had been terminated on 22.12.2006. As far as the demand charter dated 23.12.2006 and supplementary demand charter, are concerned, the same had been duly replied by the respondent. It has been denied that the petitioners had been presenting themselves at the factory gate to perform their duties and that they were not allowed to go inside the factory to do their work. It is further averred that all the petitioners, except Happy Thakur & Ranjit Singh, had abandoned their jobs w.e.f. 23.12.2006. They (all the petitioners except Happy Thakur & Ranjit Singh), had been sent letters dated 4.1.2007, 9.1.2007, 10.1.2007, 15.1.2007 and 19.1.2007, to join their duties failing which it was to be presumed that they were no more interested to continue their jobs with the respondent. When, the petitioners, except Happy Thakur & Ranjit Singh, failed to join their duties, despite aforesaid letters, the respondent management was left with no other option but to issue letter dated 31.1.2007, through registered post, stating therein that on account of their long absence from duties and not adhering to the advice/instructions of the management to join their duties, it (management) had been left with no other option but to presume that the petitioners (except Happy Thakur & Ranjit Singh), were no longer interested to continue their services and thus abandoned their jobs. They were also asked to settle their accounts. It is further explained that when the petitioners had been invited to join their duties, as per letter dated 19.1.2007, they had managed to slip/go away, except Happy Thakur & Ranjit Singh, whose services had stood terminated vide letter dated 22.12.2006. Further, the petitioners had not completed 240 days of continuous service in terms of section 25-B of the Act and that there had been no violation of the provisions of the Act. Other allegations denied.

4. Rejoinder not filed. Pleadings of the parties gave rise to the following issues which were struck on 1.10.2009.

1. Whether the termination of services of Shri Happy Thakur & 22 other workers by the management of M/s Orbit International, Pawanoo, District Solan, HP without complying with the provisions of Industrial Disputes Act, 1947, is improper and unjustified as alleged? . . .OPP.
2. If issue no.1 is proved, to what relief of service benefits, seniority and compensation, the petitioners are entitled to? . . .OPP.
3. Whether the claim is neither competent nor maintainable as alleged? . . .OPR.
4. Relief.
5. I have heard Ld Counsel for the parties and have also gone through the record of the case carefully.

6. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue no.1 No.

Issue no.2 Becomes redundant.

Issue no.3 No.

Relief. Reference answered against the petitioners and in favour of respondent, per operative part of award.

Reasons for findings

Issue no.1.

7. At the very out-set, I would like to make it clear that, in all, there are twenty three petitioners who have filed statement of claim before this Court. When regard is given to the reference, made to this Court by the appropriate government, and also the statement of claim, it is nowhere revealed that the petitioners had raised demand notice through the President of their union/workers committee. Had the demand notice been filed through President of the union/workers committee, in the reference, made to this Court, there should have been mention regarding the same. Moreover, on the record, there is a demand notice dated 23.12.2006, Ex. PA, which go to show that it had been filed before the management of the respondent by the workers, forty six in number, who had signed it. There is another supplementary demand notice dated 27.1.2007, which was filed by twenty three workers, who are petitioners before this Court and who signed the same.

When, such is the position, then it can be safely said that the demand as well as supplementary notices, had been raised by the present petitioners, including some other workmen, in their individual capacity and not through the President of their union/workers committee. Thus, it was obligatory upon all the petitioners (twenty three in number), to have appeared before this Court in order to lead evidence regarding their alleged termination of services to be illegal and unlawful for being contrary to the provisions of the Act. I may mention that before this Court, petitioners S/Shri Jagdish Chand (serial no.1) and Pradeep Kumar (serial no, 23) have appeared as PW-1 and PW-2, respectively. As far as other petitioners (at serial no. 2 to 22), are concerned, they have not appeared before this Court in support of their claim/case. Before, I proceed further, I may mention that in his statement, as PW-1, Shri Jagdish Chand, has stated himself to be the President of workers committee, in the respondent company. However, when his statement, as made, on oath, is concerned, it is revealed that he has not stated so, that he is the President of the workers committee in respondent company. His statement is further silent in order to show that to depose, before this Court, he has been authorized by the other petitioners for his being allegedly the President of the workers committee. Thus, when neither from the reference, as made to this Court, nor from the demand notices Ex. PA and Ex. PB, it is borne out that the petitioners had raised their demands through Shri Jagdish Chand, allegedly the President of workers committee, in respondent company, I have been left with no doubt in my mind that the statement which Shri Jagdish Chand, has made as PW-1, can be considered only regarding his own cause/contention, before this Court. It cannot be read on behalf of the other workers who have failed to appear before this Court. Thus, the claim of the petitioners at serial no. 2 to 22, deserves to be disallowed/ dismissed, only, on the sole ground that they have failed to examine themselves in support of their case wherein they have alleged their termination w.e.f. 23.12.2006, to be illegal and unlawful, for being in violation of the

provisions of the Act. In other words, it can be said that there is no substantive evidence, lead by the petitioners (serial no. 2 to 22), in support of their claim, as has been made before this Court.

8. As already stated, above, two of the petitioners namely Jagdish Chand and Pradeep Kumar, have examined themselves as PW-1 & PW-2, respectively. Now, it is to be ascertained as to whether, said witnesses succeed in proving their alleged termination to be illegal and unlawful for being in violation of the provisions of the Act.

9. It has been stated by Shri Jagdish Chand (PW-1) that on 22.12.2006, two petitioners namely Happy Thakur & Ranjit Singh, were terminated by the respondent company, without having complied with any procedure of law or assigning any reason. On 23.12.2006, the petitioners had raised demand notice, Ex. PA, upon which the respondent company did not allow the petitioners to perform their job/work despite the fact that daily they had been coming to the factory gate in order to do their work. In this way, the respondent company terminated their services without assigning any reason as well as issuing notice/paying compensation. Even, no enquiry had been conducted against them. On 27.1.2006, they had raised supplementary demand notice Ex. PB. Although, they had been visiting the respondent company till 31st March, 2006, but it (respondent) did not allow them to do their jobs. Some of the petitioners had received notices from the management regarding being absent from duties. Upon this, they had approached the Labour Inspector and the respondent management had agreed to take them, in service, but later-on they refused to do so. Before, Labour Conciliation Officer, they had also raised demand notice Ex. PC and that during conciliation meetings, the respondent management refused to take them back in service. In the cross-examination, he denied that they stopped coming to perform their duties in support of Happy Thakur & Ranjit Singh. In his application form, for employment, he had submitted all details with respect to his residential permanent and temporary addresses. He denied that vide registered letters dated 4.1.2007 (mark X), 9.1.2007 (mark X-1) and 10.1.2007, (mark X 2), the respondent company asked them to join their duties immediately. He admitted that vide letter dated 15.1.2007, Ex. RPA, the respondent had asked them to resume their duties. He further stated that they used to visit the factory, daily, but the respondent management did not allow them to enter the factory gate. He cannot produce any documentary proof that the management was not allowing them to enter the premises of the factory. He denied that since, he had failed to join his duties despite letters dated 4.1.2007, 9.1.2007, 10.1.2007, 15.1.2007 and 19.1.2007, the management struck off his name from the rolls w.e.f. 30.1.2007. He denied that the respondent company had sent him registered letter dated 19.1.2007, the copy of which is mark X-4. Self-stated that he did not receive this letter. He cannot show any document, as per which, he had made any complaint to the Labour Inspector or any other authority that the management had not been allowing them to enter the gate of the factory. He admitted that except Happy Thakur & Ranjit Singh, all the petitioners had received letter dates 4.1.2007, from the management.

10. Pradeep Kumar (PW-2), stated that the services of two petitioners namely Happy Thakur & Ranjit Singh, had been terminated by the respondent management without assigning any reason and complying with the provisions of law. On 23.12.2006, all the petitioners had gone to the management for negotiation upon which, the respondent company closed its gate and did not allow them to do their jobs. Neither any notice nor retrenchment compensation was paid to them. Even, no enquiry was conducted against them. Till 31.3.2007, they had been coming to the factory gate but the respondent management did not allow them to enter the same. In the cross-examination, he admitted that the addresses mentioned in letters dated 4.1.2007, 9.1.2007, 10.1.2007, 15.1.2007 and 19.1.2007, mark Y to mark Y-4, are correct. He had not received the aforesaid letters. Letter dated 30.1.2007, bears his correct address. He also denied to have received said letter dated 30.1.2007, mark Y-5. He denied that they (petitioners) had stopped coming to the factory in order to perform their duties. Self-stated that they used to go to the factory but the respondent management did not

allow them to enter the same. He cannot produce any complaint that the management had stopped them from entering the factory.

11. RW-1, Shri Ravinder Mathur, has stated that as per authority letter RX, he has been authorized to make statement before this Court. In his affidavit, by way of examination-in-chief, he stated that the services of Happy Thakur & Ranjit Singh had been terminated, as per the provisions of the Act, on 22.12.2006 and that they refused to receive termination letters and full & final settlement, which later on was sent to them by registered post. W.e.f 23.12.2006, all the petitioners except Happy Thakur & Ranjit Singh, had failed to turn up, in order to perform their duties, and thus abandoned their jobs. Demand charters dated 23.12.2006 and 23.1.2007, had been replied by the respondent company. Notices, dated 4.1.2007, 9.1.2007, 10.1.2007, 15.1.2007 and 19.1.2007, had been sent to the petitioners, except Happy Thakur & Ranjit Singh, asking them to join their duties, through registered post but they failed to do the needful. Thereafter, the management issued letters dated 30.1.2007 and 31.1.2007, by registered post to the petitioners except Happy Thakur & Ranjit Singh, stating therein that on account of their long absence, from duties, and not adhering to the advise/instructions of the respondent company to join their duties, it (management) had been left with no other option but to presume that the petitioners (except Happy Thakur & Ranjit Singh), were no longer interested to continue with their services and thus abandoned their jobs. When, vide letter dated 19.1.2007, the petitioners except Happy Thakur & Ranjit Singh, had been asked to join their duties and that they managed to go away, along-with said Happy Thakur & Ranjit Singh, whose services were terminated on 22.12.2006, it was presumed that all the petitioners except Happy Thakur & Ranjit Singh had abandoned their jobs and for this reason, their names were struck off from the rolls of the company. At no point of time, there had been hundred or more than hundred workers in the respondent company. In the cross-examination, he denied that no letter had been issued, to the petitioners, on their correct addresses. He further denied that after 23.12.2006, all the petitioners had been demanding work by coming to the factory gate but the respondent management did not allow them to join the same.

12. From the evidence of RW-1 Shri Ravinder Mathur, it is quite clear that when the petitioners had stopped coming to perform their duties w.e.f. 23.12.2006, they had been issued various letters to join their duties. It has been admitted by PW-1, Shri Jagdish Chand that he had received letter dated 30.1.2007. In the evidence of Pradeep Kumar (PW-2), it has come that addresses, on letters, dated 4.1.2014, 9.1.2014, 10.1.2014, 15.1.2014 and 19.1.2014, are correct. Further letter dated 30.1.2007, bears his correct address. Although, it has been stated by the said witnesses (PW-1 & PW-2), that these letters had not been received by them and that were being prevented to enter the gate of the factory by the respondent management but in this regard, they have not brought, on record, any such document/complaint which they had made to the Labour Inspector or any other authority. In case, the management had been preventing the petitioners (except Happy Thakur & Ranjit Singh) from performing their duties, it was required of them to have made a complaint to the Labour Inspector or any other authority, in this regard. This clearly goes to show that despite having been asked by the respondent management to resume their duties, the petitioners had not done the needful. This supports the defence version that they (petitioners except Happy Thakur & Ranjit Singh) had abandoned their jobs and for this reason, their names stood struck off from the rolls of the respondent company. Thus, the petitioners have failed to prove that their services had been illegally terminated w.e.f. 23.12.2006 and that they were not allowed to enter the gate of the factory to perform their duties by the respondent company. On behalf of petitioners reliance has been placed on *latest HLJ 2007 (HP) 903 State of HP & Others Vs. Bhatag Ram & Another*, in which it has been held by our own Hon'ble High Court that:

“Plea of abandonment of job- merely raising the plea of abandonment is nothing but has to be established on the basis of facts.”

This authority is of no help to the petitioners because the respondent company has proved, on record, that the petitioners had been issued various letter to join their duties but they failed to do so and thus abandoned their jobs. Hon'ble High Court of Madras in 2003 LLR 852, P. Krishnan Vs. Management, Jonas Woodhead and Sons (India) Ltd., Madras and another, has held that:

“It is not incumbent on employer to wait indefinitely for the workman who fails to join his duties or sending application for leave despite repeated letters and the employer can act within his rights in removing the workman from the rolls”. It has further been held that “termination of such workman for his habitual absence and not joining his duties despite letters and reminders to this effect will be legal and justified even when no enquiry has been held by the management”.

In 2007, LLR 344, University of Dehli Vs. Suresh Chand, the Hon'ble High Court of Dehli has held that :

“Termination of a workman, remaining absent from work without any intimation or prior permission even without holding of an enquiry, will be justified”.

13. In the instant case, the petitioners had remained absent from their duties despite having been issued various letters asking them to join their duties. Thus, the respondent management was justified to strike off their names from the rolls of the respondent company even without holding any enquiry. I dis-agree with the Ld. Counsel for the petitioners that the services of the petitioners have been terminated in violation of the provisions of the Act and that they deserve to be reinstated with all the consequential service benefits.

14. Consequently, for what has been stated and observed above, I hold that the petitioners have failed to prove this issue to which my answer is in “no”.

Issue no.2.

15. Since, issue no.1 has been replied in negative, this issue becomes redundant.

Issue no.3.

16. An objection has been taken by the respondent that the claim which has been filed before this Court, by the petitioners, is neither competent nor maintainable. I may mention that consequent upon the reference which was made to this Court, by the appropriate government, the petitioners filed their statement of claim. Since, the reference, which has been made to this Court, is required to be answered, it cannot be said that the claim petition, which has been filed by the petitioners, consequent thereupon, is neither competent nor maintainable. Thus, I hold it to be competent/maintainable and my answer to this issue is in “No”.

Relief.

As a sequel to my findings on the aforesaid issues, the claim of the petitioners fails and is hereby rejected and as such, the reference is answered in favour of the respondent and against the petitioners. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today on this 9th day of July, 2014.

(A.S JASWAL)
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Ref no. 102 of 2009.
Instituted on 18.11.2009.
Decided on 9.7.2014.

Ramesh Chand S/o Shri Sundar Ram R/o Village Hambot, P.O Hatwar, Tehsil Ghumarwin,
District Bilaspur, HP. . *Petitioner.*

VS.

The General Manager, M/s Winsome Textiles Industries Ltd., Industrial Area Baddi,
District Solan, HP. . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioners: Shri Niranjana Verma, Advocate.

For respondent: Shri Rahul Mahajan, Advocate.

AWARD

The reference for adjudication, is as under:

“Whether demand raised by President, CITU, District Committee Solan, before the Managing Director, M/s Winsome Textiles Industries Ltd., 1, Industrial Area Baddi, District Solan that worker Shri Ramesh Chand S/o Shri Sunder Ram be paid an amount of Rs. 84,797/-, only for the arrear of increment from the period 1.4.2003 to December, 2007, is legal and justified? If yes, what relief and consequential service benefits the above worker is entitled to”

2. In nutshell, the case of the petitioner is that he has been working with the respondent company, as generator operator, since 23.5.1995. It is alleged that the respondent company started harassing him and without any cause/reason, deducted Rs. 280/-, per month, from his basic salary, illegally, from 1997. His annual increment was stopped in the year, 2003. For the years, 2004, 2005, 2006 and 2007, he had been paid annual increments in the sum of Rs. 100, Rs. 150, Rs. 225 and Rs. 350 respectively. Other employees, who are junior to him, were paid increments at higher rate which was almost double to what the petitioner was paid. In the year, 2008, he had been paid only half increment and in the year, 2009, he was not paid any increment. It is further alleged that the annual increment for the years, 1996 to 1999, were Rs. 325/-, Rs. 375/-, Rs. 475/- and Rs. 500/- respectively, which the respondent company subsequently, deducted, in illegal manner. Regarding this illegal deduction, he filed demand notice through CITU to Labour and Conciliation Officer, Baddi, but, the conciliation failed. He was also not permitted to avail lunch breaks and no over time was paid to him for the work performed by him by way of over time. Thus, he is entitled to Rs. 84,795/- from the period 1.4.2003 to December, 2007 and thereafter about Rs. 1,35,000/- till the filing of the claim.

3. The petition has been contested, on having raised preliminary objections including maintainability. On merits, it has been asserted that since the work, conduct and activities of the petitioner were detrimental to the interest of the industrial establishment of the respondent, he had been issued show cause notice on several occasions and also the warning letters. Apart from this,

the work of the petitioner was also not up to the mark. It is further averred that the petitioner had been indulging in unfair labour practice. It has been specifically denied that he (petitioner) had been raising the genuine demands/grievance of the employees. It is further maintained that a sum of Rs. 280/- had not been deducted out of the wages of the petitioner. In fact, initially the replying respondent was a new company and as per the provisions of EPF and MP Act, the infancy period of three years was given to it and for this reason, contribution under EPF and MP Act were not deducted from the salaries of the workers/employees. After three years, the amount towards their contribution automatically stood deposited in the EPF account of the workers/employees. It has been denied that the replying respondent had made deduction in the salary of the petitioner. The increments, which had been paid to the petitioner, are as under:

Sr. No.	Year Increment
1. 1996	325
2. 1997	375
3. 1998	475
4. 1999	500
5. 2000	450
6. 2001	400
7. 2002	No increment was given to any worker
8. 2003	The petitioner was not given any increment.
9. 2004	100
10. 2005	150

Already, the petitioner has been appointed as generator operator and annual increment was given to him. Further, as far as the annual increment is concerned, it is given keeping in view the financial health of the organization and also the performance of the individuals. Since, the conduct of the petitioner as well as his performance were not up to the mark, he was advised to improve the same. When there had been negligible improvement on his part, he was given increment. Although, the reference, for the alleged payment of increments, is for the period w.e.f. 1.4.2003 to December, 2007 but the petitioner has calculated the amount till date which is beyond its scope. Other allegations denied.

4. Rejoinder not filed. Pleadings of the parties gave rise to the following issues which were struck on 30.8.2010.

- Whether the demand raised by CITU that petitioner be paid an amount of Rs. 84,795/- by way of arrear of increment from the period 1.4.2003 to December, 2007, is legal and justified, as alleged? . . . *OPP.*
- If issue no.1 is proved in affirmative, to what relief/consequential service benefits, the petitioner is entitled to? . . . *OPP.*

3. Whether this petition is not maintainable as alleged?

..OPR.

4. Relief.

5.

5. I have heard Ld Counsel for the parties and have also gone through the record of the case carefully.

6. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue no.1 Partly in yes.

Issue no.2 Entitled for annual increments @ Rs. 400/- w.e.f. 1.4.2003 to December, 2007 by deducting the increments already paid to him in the aforesaid years (1.4.2003 to December, 2007).

Issue no.3 No.

Relief. Reference partly answered in favour of the petitioner, per operative part of award.

Reasons for findings

Issue no.1 & 2.

7. Both these issues being interlinked are taken up together for discussion and decision.

8. At the very out-set, I would like to make it clear that as per the reference, which has been made to this Court, the demand of the petitioner, raised through President CITU, is for the payment of Rs. 84,795/-, by way of arrears of increments for the period 1.4.2003 to December, 2007. When, regard is given to the statement of claim, filed by the petitioner, it is revealed that he has also alleged that the respondent company had deducted Rs. 280/- from his basic salary from the year, 1997. He has also sought to claim Rs. 1,35,000/- by way of arrears of his salary, allegedly withheld/deducted by the respondent company for the period after December, 2007. I may make it clear that this Court is required to answer the reference, which has been made to it, by the appropriate government. For this reason, it has to ascertain that as to whether the demand of the petitioner, raised through President CITU, for the payment of Rs. 84,795/- by way of arrears of increments from the period 1.4.2003 to December, 2007, is to legal and justified or not.

9. When, regard is given to the defence version, it is highlighted that since the work and conduct of the petitioner was not satisfactory, he was not given increments. The defence version is further to this effect that as far as the annual increments are concerned, the same are given, keeping in view the financial health of the organization and also the performance of the individuals. The contention of the respondent is further to this effect that the amount, which had been deducted from the salary of the petitioner, along-with other workers, was towards contribution made under EPF and MP Act.

10. The petitioner who appeared in the witness box as PW-1, stated that since, he had been espousing the cause of the workmen, the management of the respondent company, was annoyed with him and for this reason, stopped his increments from 1.4.2003. In the year, 2004, he was paid Rs. 100/- by way of increment and in the years, 2005, 2006, 2007, Rs. 150/-, Rs. 225/- and Rs.

350/- respectively, had been given by way of increments. His basic salary had also been deducted w.e.f. 1.4.1997 to the tune of Rs. 280. He had made a representation to the management, which is Ex. PA and its copy was also sent to the Labour Officer. He also raised demand notice dated 10.1.2006, which was sent to the M.D of the respondent company, copy thereof forwarded to Labour Officer. Neither he is being paid increment nor deduction as made in his basic salary, till date. In the cross-examination, he denied that in the respondent company there is no union. Ex. PA, had been sent by him to respondent company and Labour Officer and on its basis, reference has been made to this Court. The workers, working in different departments, perform their jobs as per their skills. He denied that his basic salary was not deducted in 1997. He admitted that regarding deduction in his basic salary, he did not make any representation. He admitted that different increments are given to the workers working in different departments. His PF was deducted from September, 1997. He admitted that except Ex. PA and filing of application no. 67 of 2005, he had never raised any claim for increments.

11. According to Shyam Lal (PW-2), the petitioner is not being paid the increments, which are being given to him (PW-2) and other workers. In the year, 1997, the basic salary of the petitioner had also been deducted. This was done because he had been espousing the cause of the workers. In the cross-examination, he admitted that the work being done by him is different from that of the petitioner.

12. Shri Surender Kumar (RW-1), in his affidavit Ex. R-1, has stated that vide authority letter Ex. R-2, he has been authorized to depose before this Court. According to him, in the respondent company there is no union. The petitioner had not served any letter dated 8.2.2008, on the respondent company.

However, the same had been received from the office of Labour Officer, Baddi vide letter dated 14.2.2008, which had been replied on 25.3.2008. The conduct of the petitioner was not good and he also used to indulge himself in activities which were detrimental to the interest of respondent company. Since, no union exists in the respondent company, there is no question of the union espousing the cause of the workers of the respondent company. Rs. 280/- had not been deducted from the wages of the petitioner. Initially, for three years, the infancy benefits had been given to the respondent company and for this reason, contribution under EPF and MP Act was not deducted by the respondent company from the salary of the petitioner and other employees/workers. After the completion of infancy period, the contribution under said Acts stood automatically deducted. The increments, which had been paid to the petitioner, are as under:

Sr. No.	Year	Increment
1.	1996	325
2.	1997	375
3.	1998	475
4.	1999	500
5.	2000	450
6.	2001	400
7.	2002	No increment was given to any worker
8.	2003	The petitioner was not given any increment.

9. 2004	100
10. 2005	150

Although, the work and conduct of the petitioner was not up to the mark and that he had been only showing negligible improvements, on having been advised, still he was given increments. In the cross-examination, he denied that in the year 1997, Rs. 280/- had been deducted from the salary of the petitioner. He denied that in the year 2003, they had stopped giving increments to the petitioner. He further denied that the respondent company had illegally deducted the increments of the petitioner. Before this court, no such document has been produced which could go to show that any letter had been issued to the petitioner to improve his performance.

13. From the evidence of Shri Surender Kumar (RW-1), it is revealed that in the year, 2003, no increment had been given to the petitioner. From this document, it is further revealed that in the year, 2001, the petitioner had been given increment in the sum of Rs. 400/-. For the years, 2000, 1999, 1998 and 1997, he had been given increments in the sum of Rs. 450/-, Rs. 500/-, Rs. 475/- and Rs. 375/- respectively. It is further borne out that in the year, 2004, the petitioner had been given increment in the sum of Rs. 100/- and in the year, 2005, Rs. 150/-. Although, the contention of the respondent, in withholding the increment of the petitioner for the year, 2003, is that his conduct and work was not satisfactory and that he had been indulging in activities which were detrimental to the interest of the respondent company but there is no such record, on file, which could go to substantiate such plea of the respondent company. I may mention that no such letter/show cause notice has been produced, before this Court, which could go to show that the petitioner had been advised to improve his work/conduct. It is further to be noted that the respondent company has also not brought, on file, any such order/document which could go to show that the grant of increments to the workers, including the petitioner were subject to the financial health of the organization. When, such is the position, then, the plea of the respondent company, that the workers were entitled to be given increments as per financial health of the organization and their work/performance, is not substantiated. Under these circumstances, it can be said that without any justifiable cause/reason, the petitioner had been denied increment for the year, 2003. It has been stated by the petitioner that for the years, 2004, 2005, 2006 and 2007, he had been given increments in the sum of Rs. 100/-, Rs. 150/-, Rs. 225/- and Rs. 350/- respectively. It is not understandable as to why for the years, 2004 to 2007, increments of the petitioner got reduced particularly when there is no such material, on record, which could go to show that before decreasing his increments, he had been given any notice/show cause notice regarding non performance of work or misconduct. In my considered view, the petitioner can be held entitled for annual increments @ Rs. 400/- w.e.f. 1.4.2003 to December, 2007, which was paid to him in the year, 2001. As far as the case of the petitioner regarding alleged deduction of his basic salary in the sum of Rs. 280/- w.e.f. 1997, is concerned, the same cannot be considered by this Court for being beyond reference.

14. Consequently, for what has been stated and observed above, the claim of the petitioner is partly allowed and he is held entitled for annual increments @ Rs. 400/- w.e.f. 1.4.2003 to December, 2007, which was paid to him in the year, 2001. Accordingly, my answer to both these issues is partly in "yes".

Issue no.3.

15. The contention of the respondent is to this effect that the reference, which has been made to this Court, is not maintainable because it has not been espoused by the petitioner through union. I may mention that from the reference, it is quite clear that the case of the petitioner has been espoused by CITU through its President. Thus, the case law J.H Jadhav Vs. M/s Forbes Gokak Ltd.,

2005-II SC 69, as relied upon on behalf of the respondent, is not applicable to the facts of the present case. On the same score, another case law The Bombay Union of Journalists and others Vs. The 'Hindu' Bombay and another, AIR 1963 SC 318, is also not applicable to the facts of the present case. Thus, I dis-agree with the counsel for the respondent that the petition which has been filed before this Court, is not legally maintainable. Accordingly, by holding it to be maintainable, my answer to this issue is in "No".

Relief

As a sequel to my findings on the aforesaid issues, the claim of the petitioner is partly allowed and as such the respondent is directed to pay the annual increments @ Rs. 400/- w.e.f. 1.4.2003 to December, 2007, which was paid to him in the year, 2001 by deducting the amount of increments which were already paid to him w.e.f. 1.4.2003 to December, 2007. The reference is answered accordingly in favour of the petitioner and against the respondent. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today on this 9th day of July, 2014.

(A.S JASWAL),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, SHIMLA.

Ref no. 92 of 2009.

Instituted on 18.11.2009.

Decided on 31.7.2014.

Basant Lal S/o Shri Budhi Ram R/o Village & P.O Majhiwar Tehsil, Sunni, District Shimla,
HP. . .Petitioner.

VS.

The Director, HP Institute of Public Administration, Fairlawns, Shimla-12, HP.
. .Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner: Shri S.S Parmar, Advocate.

For respondent: Shri Surender Negi, Dy. DA.

AWARD

The reference for adjudication, is as under:

"Whether the termination of services of Shri Basant Lal S/o Shri Budhi Ram by the Director, HP Institute of Public Administration, Fairlawns, Shimla-12 w.e.f. 28.2.1991

without complying with the provisions of the Industrial Disputes Act, 1947 as alleged by the workman is proper and justified? If not what relief of service benefits including reinstatement the above worker is entitled to?"

2. In nutshell, the case of the petitioner is that he was engaged as Class-IV employee, on daily wages basis, by the respondent institution (hereinafter referred as respondent) in the year, 1987 and continued to serve it till 12.12.1989, when his services were retrenched without complying with the provisions of law. On 1.9.1990, he was again re-engaged by the respondent and remained posted as daily waged worker till 28.2.1991. It is alleged that his services, thereafter, were terminated without notice and paying retrenchment compensation as required under the law. Apart from this, the respondent re-engaged S/Shri Sher Singh, Khem Singh and Smt. Maina Devi. It is further asserted that it was the bounden duty of the respondent to have first offered appointment to him (petitioner) and in the event of his un-willingness, to join duties, the respondent should have engaged fresh hands. It is further averred that after his termination, the respondent has also appointed S/Shri Dharam Prakash and Jagat Ram, as daily waged workers. This was done without giving an opportunity to the petitioner. Since, his services had been terminated, on 28.2.1991, without having complied with the provisions of the law, he deserves to be reinstated with all consequential service benefits.

3. The petition has been contested on having raised preliminary objections qua maintainability and that the same is hit by delay and laches because the same has been filed after about 19 years. On merits, it has been stated that the petitioner was engaged as part time casual worker and not on daily wage basis as Class-IV employee, as alleged. From his initial engagement, as such, on 27.11.1987, he continued upto 12.12.1989 @ 4.90, per hour for 4 hours per day as per rates revised by the Deputy Commissioner, Shimla. It is further explained that he had been engaged by different orders as part time worker, as and when his services were required, for specific period upto 12.12.1989, subject to the condition that his such appointment was not to confer any right for regular appointment. Due to non-availability of funds and work, his services were terminated w.e.f. 12.12.1989. When, the petitioner filed a Civil Writ Petition in the Hon'ble High Court, against his termination, in the month of Jan., 1990, the respondent in the mean-time sent a proposal to the Government for his re-engagement along-with other workers. In the month of August, 1990, the approval thereto was conveyed, for their reengagement, as part time casual worker, for 4 hours per day, upto 30.11.1990 vide letter dated 27.8.1990. Accordingly, the petitioner was informed vide letter dated 29.8.1990 to join duties on 1.9.1990, at 10:00 AM. In this way, his engagement was valid only upto 30.11.1990. The respondent, again took up his matter with the government so that his services could be continued due to heavy schedule of training programmes in the institute till Feb., 1991. The Government gave its approval upto 28.2.1991 or till the decision of Hon'ble High Court. Thus, on 6.12.1990, order for his engagement was issued as per the approval of the government. It is further averred that as per the directions of the Government, notice of termination of services was issued to the petitioner on 28.1.1991 vide which it was cleared that his services were not to be required after 28.2.1991. Such notice had also been issued to the similarly situated part time casual workers, some of whom were senior to the petitioner. By serving one month's notice upon the petitioner, as required under section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred as Act), the compensation was worked-out as per the provision contained in clause (b) of section 25-F of the Act in respect of the petitioner and other similarly situated workers. On having calculated their compensation, Bank Drafts were got prepared on 28.2.1991. The petitioner, who had been informed, in writing, to collect the compensation of retrenchment along-with wages for the month of Feb., 1991, refused to do the needful. Subsequently, the amount of compensation and wages for the month of Feb., 1991, were remitted to him, on 8.3.1991, by Bank Draft through registered post. Notice, in prescribed manner, was also sent to the Secretary, Labour Department to the Government of H.P who has been declared competent authority as per the Act. In this way, the services of the petitioner as well as other similarly situated workers had

been terminated after having complied with the provisions of section 25-F of the Act. As far as Sher Singh, is concerned, he was engaged as Masalchi by Mess Co-operative society (Regd.), Fairlawns, Shimla (hereinafter referred as Society) for dish-washing. Shri Khem Chand had also been engaged by the Society, in Mess, for cleaning utensils etc. during the period 25.6.1996 to 30.6.1996 and 1. 7.1996 to 24.7.1996. Both the said workmen had not been engaged by the respondent. Similarly, Smt. Maina Devi was engaged as labourer in a Government of India sponsored programme for the reason that she was readily available for the work which was to be attended urgently. It is further maintained that S/Shri Dharam Prakash and Jagat Pal had been appointed, on daily wages basis, against vacant posts of regular class-IV, w.e.f. 24.12.1998, after getting the approval of the government to fill-up those posts. Before appointing them, the requisition had been sent to all the employment Exchanges of H.P to sponsor the names of the candidates for above posts. Their names had been sponsored by Sub Employment Exchange, Mashobra, Shimla. As far as the name of the petitioner is concerned, it was not sponsored by any of the Employment Exchange. On having received the names from the different Exchanges, the interview of the candidates sponsored by the Exchanges were conducted and aforesaid Dharam Prakash and Jagat Pal were selected and sent appointment orders accordingly on 24.12.1998. Other allegations denied.

4. Rejoinder to the reply filed by the respondent, not filed despite having been afforded opportunities.

5. Pleadings of the parties gave rise to the following issues which were struck on 4.9.2010.

1. Whether the services of the petitioner were terminated against the provisions of the Industrial Disputes Act, 1947 in an unjustified manner as alleged? . . . *OPP*.
2. If issue no.1 is proved, to what relief of service the petitioner is entitled to? . . . *OPP*.
3. Relief.

6. I have heard Ld Counsel for the parties and have also gone through the record of the case carefully.

7. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue no.1 No.

Issue no.2 Becomes redundant.

Relief. Reference answered against the petitioner and in favour of respondent, per operative part of award.

Reasons for findings

Issue no.1.

8. From the facts, which have been stated in the petition, it is highlighted that as per the petitioner, he had been engaged as class-IV employee, on daily wage basis, by the respondent in the year, 1987 and continued to remain, as such, till 12.12.1989, when his services were retrenched without having complied with the provisions of the Act. On 1.9.1990, he was again re-engaged, as

daily waged worker, and remained posted, as such, till 28.2.1991, when his services were again terminated without having complied with the provisions of the Act. The contention of the petitioner is further to this effect that after his termination, the respondent re-engaged S/Shri Sher Singh, Khem Singh and Smt. Maina Devi, without having offered him job/work. His plea is further to this effect that even S/Shri Dharam Prakash and Jagat Pal, had been appointed as daily waged workers after his termination.

9. On the other hand, the defence version is to this effect that the petitioner had been engaged as part time casual worker on 27.11.1987 and continued, as such, till 12.12.1989 on wages @ 4.90 per hour for 4 hours, as per different orders, as and when his services were required. When, in the month of Jan., 1990, the petitioner had filed a Civil Writ Petition before the Hon'ble high Court, in the mean-time, the respondent had sent a proposal to the government for his re engagement along-with others, in the month of August, 1990 and vide letter dated 27.8.1990, the Government conveyed its approval for their re-engagement for 4 hours per day upto 30.11.1990, which was further extended by the government upto 28.2.1991. In these circumstances, the orders for the reengagement of the services of the petitioner had been issued on 6.12.1990. It is further the contention of the respondent that as per the directions of the Government, notice of termination was issued to the petitioner on 28.1.1991 stating therein that his services were not to be required after 28.2.1991 and retrenchment compensation was also worked-out which had to be remitted to the petitioner by Bank draft through registered post, since, he had refused to receive the same.

10. The petitioner (PW-1), in his affidavit Ex. PW-1/A, has supported the facts as stated in the petition on all material particulars including that his services had firstly been terminated on 12.12.1989 and thereafter, he was re-engaged on 1.9.1990 but the same were again terminated on 28.2.1991, without having complied with the provisions of the Act. The respondent also re-engaged S/Shri Sher Singh, Khem Singh and Smt. Maina Devi besides having appointed S/Shri Dharam Prakash and Jagat Pal, after his termination. The respondent was required to offer him the appointment, on daily wage basis, instead of re-engaging/appointing the aforesaid persons. In the cross-examination, he denied that he was engaged as part time casual worker and not as class- IV daily waged employee. He further denied that he had been engaged only for 4 hours per day. During the period, when he had filed a Writ Petition, before the Hon'ble High Court, in the month of August, 1990, he was engaged as part time worker and continued to remain as such till 30.11.1990. He expressed his lack of knowledge that as per letter dated 1.9.1990, his services had been re-engaged upto 28.2.1991 or till the decision of the Hon'ble High Court. He further expressed his lack of knowledge, in this regard, that he had been issued an order on 6.12.1990. He admitted that order Ex. R-1 dated 28.1.1991, had been given to him by the respondent. He denied that, in writing, he had been informed by the respondent to receive the retrenchment compensation along-with wages for the month of Feb., 1991. He admitted that later on, the amount of compensation and wages for the month of Feb., 1991, had been sent to him by Bank Draft through registered post on 8.3.1991, which he had received. He expressed his ignorance that Sher Singh and Khem Singh had been engaged by Mess Co-operative Society (regd.), Fairlawns, Shimla, as Masalchi, and utensil cleaners. He admitted that S/Shri Dharam Prakash and Jagat Pal, had been appointed, as daily wagers, against vacant post of regular class-IV employees, on 24.12.1998. Before their appointments, requisitions had been sent to all the Employment Exchanges to sponsor the names of candidates for the posts. His name had not been sent by the employment Exchange. Thereafter, the interview of the candidates, including Dharam Prakash and Jagat Pal, had been got conducted and they were selected. Ex. R-2 bears his signatures.

11. Shri Kishore Krishan Sharma (RW-1) states that he has been authorized by the Director of H.I.P.A (respondent) to give evidence. His affidavit is Ex. RW-1/A. Ex. RW-1/B, is the photocopy of letter dated 29.8.1990, which is correct as per original brought by him. Letters dated 27.8.1990 and 3.12.1990, are Ex. RW-1/C and Ex. RW-1/D. Ex. R-2, is the office order dated

6.12.1990. Ex. RW-1/E, is the copy of letter dated 8.3.1991. Ex. RW-1/F, is the office order dated 28.1.1991, which was received by the petitioner, as is evident from its back-side. Ex. RW-1/G, is the letter dated 8.3.1991, in which the name of the petitioner has been shown encircled red "A". The amount was received by the petitioner through Bank Draft, the receipt of which is Ex. RW 1/H, in which, there is mention of the name of the petitioner encircled red "A". Ex. RW-1/J, is the requisition form and Ex. RW-1/K, is the list of the candidates sponsored by the employment Exchange. The name of the petitioner had not been sponsored by any of the Employment Exchange. In the cross-examination, he admitted that in Ex. RW-1/A, there has been no such mention that he was authorized by the department to give evidence before this Court. He admitted that in order to send the name of the petitioner, he had not written to the Employment Exchange. He was not in the department during the period to which the present case pertains. He denied to have deposed falsely.

12. From the evidence of RW-1 Shri Kishore Krishan Sharma, it is abundantly clear that the petitioner had been initially engaged, on 10.8.1987, as part time casual worker, on wages @ 4.90 per hour for 4 hours per day. Here, I may like to point-out that no such appointment order/letter has been brought, on file, by the petitioner which could go to show that his initial appointment was as daily waged, class-IV employee. The evidence, on record, also goes to show that when the petitioner was disengaged w.e.f. 12.12.1989, he filed a Writ Petition before the Hon'ble High Court and in the mean-time, the department had sent a proposal to the Government for his reengagement along-with other workers. Ex. RW-1/C, is the letter dated 27.8.1990, as per which, the Government had given its approval for the reengagement of the petitioner along-with others (in all five), as part time casual workers, upto 30.11.1990. In this regard, vide letter dated 29.8.1990, Ex. RW-1/B, the petitioner along-with other 4 workers, had been informed. There is another letter dated 3.12.1990, Ex. RW-1/D, on record, which goes to show that as per it, the Government had again given its approval for the extension of the services of the petitioner as well as 4 other part time workers upto 28.2.1991 or till the decision of the Hon'ble High Court, whichever was earlier. Consequent upon the aforesaid approval dated 30.12.1990 (Ex. RW-1/D), the petitioner, along-with others, was informed vide office order dated 6.12.1990 (Ex. R-2), on which his signatures are encircled red "A". Here, I may like to point-out that as per letter dated 29.8.1990 (Ex. RW-1/B), it had been brought to the notice of the petitioner along-with other 4 workers that their reengagement upto November, 30. 1990, was as part time casual workers, for 4 hours per day and not as daily wage basis as alleged by the petitioner. When, the engagement of the petitioner, alongwith other 4 workers, was extended by the Government vide letter dated 3.12.1990, Ex. RW-1/D, they had been informed in this regard as per office order dated 6.12.1990 (Ex. R- 2), which was noted/received by the petitioner by signing the same encircled red "A". In this office order, it has also been clearly mentioned that his engagement was as part time casual worker for 4 hours in a day.

13. From the documents, which have been referred to above, it is abundantly clear that the petitioner along-with other 4 workers had been made known, from the very beginning, that their engagements had been as part time casual workers for 4 hours per day. Thus, the contention of the petitioner that his engagement was as class- IV daily waged employee and evidence led in support thereof cannot be believed. The petitioner, along-with others, had also been informed vide Ex. R-2 that his services were to come to an end by Feb., 1991. In this way, the evidence, on record, is clear enough to prove that it had been brought to the notice of the petitioner, along-with other 4 workers, that their engagement was for 4 hours per day as part time casual worker and that vide office order dated 6.12.1990 (Ex. R-2), the same was to come to an end from Feb., 1991. Here, I may also like to point out that vide Ex. RW-1/D (letter dated 3.12.1990), the services of the petitioner, alongwith other 4 workers, had been extended with the prior approval of the Government. Thus, the services of the petitioner, along-with other 4 workers, could have been extended beyond Feb., 1991 by the prior approval of the Government and not by the respondent itself. When, there was no prior

approval of the Government, to extend the services of the petitioner, along-with other 4 workers, beyond Feb., 1991, the respondent issued an order/notice dated 28.1.1991, Ex. RW-1/F, whereby, the petitioner, along-with other 4 workers, was informed that on 28.2.1991, his services were to stand disengaged and this order/notice was also got noted to the petitioner as is evident from his name and signatures encircled red "A". This goes to show that before disengaging the services of the petitioner, he had been given one month's notice. The respondent had also got prepared retrenchment compensation along-with wages of the petitioner for the month of Feb., 1991. Since, the same had not been received by the petitioner, those were got sent to him by Bank Draft through registered post, which is evident from Ex. RW-1/A and Ex. RW-1/G. It is to be noted that as far as retrenchment compensation and wages for the month of Feb., 1991 are concerned, the petitioner (PW- 1), has admitted to have received the same. Thus, the evidence, which has been referred to above, clearly goes to show that before disengaging the services of the petitioner, the respondent had also complied with the provisions of the Act as contained in section 25-F.

14. Another contention of the petitioner is that after his termination, the respondent had reengaged the services of S/Shri Sher Singh, Khem Singh and Smt. Maina Devi besides appointing S/Shri Dharam Prakash and Jagat Pal. In its reply, the respondent has categorically stated that as far as the services of S/Shri Sher Singh and others are concerned, those were engaged by Mess Co operative Society, Fairlawns, Shimla (registered). As far as the services of Smt. Maina Devi are concerned, the same has been engaged in a Government of India sponsored programme for the reason that she was readily available for the work which was to be attended urgently. This makes it clear that the respondent had not engaged the aforesaid persons. Moreover, no such record has been brought by the petitioner, in order to show, that the above said persons were junior to him. It is to be noted that S/Shri Dharam Prakash and Jagat Pal have been appointed on daily wage basis against vacant regular class-IV posts w.e.f. 24.12.1998 from the candidates whose names had been sponsored by different Employment Exchanges. Ex. RW-1/J, is requisition form, as per which, the respondent had requisitioned the names of the candidates for two posts of class- IV, on daily wages, at 51 per pay/ rate fixed by the Government, from time to time. Ex. PW-1/C, is the list of the candidates sponsored by the Employment Exchange, Mashobra. In this list, the names of Dharam Prakash and Jagat Pal figure. It had been admitted by the petitioner (PW-1), that the department (respondent) had sent requisition to the employment Exchange for sponsoring the names of the candidates and the names of the Dharam Prakash and Jagat Pal had also been sponsored. He further admits that the interview of the sponsored candidates, including Dharam Prakash and Jagat Pal, had been taken and thereafter both were given appointment.

15. Thus, from the evidence, referred to above, it is quite clear that both Dharam Prakash and Jagat Pal had been appointed as Class-IV, daily wagers, on having followed the procedure, against regular posts. In this way, the contention of the petitioner that there has been violation of section 25-G & H by respondent is of no avail. 16. Consequently, for what has been stated and observed above, I hold that the petitioner has failed to prove this issue to which my answer is in "no".

Issue no.2.

17. Since, issue no.1 has been replied in negative, this issue becomes redundant.

Relief.

As a sequel to my findings on the aforesaid issues, the claim of the petitioner fails and is hereby rejected and as such, the reference is answered in favour of the respondent and against the

petitioner. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today on this 31st day of July, 2014.

(A.S JASWAL).
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNALCUM-
LABOUR COURT, SHIMLA

Ref no. 90 of 2009.
Instituted on 18.11.2009.
Decided on 31.7.2014.

Meen Chand S/o Shri Narayan Dass R/o Village Kangri, P.O & Tehsil, Sunni, District
Shimla, HP. *.Petitioner.*

V.S.

The Director, HP Institute of Public Administration, Fairlawns, Shimla-12, HP.
.Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner: Shri S.S Parmar, Advocate.

For respondent: Shri Surender Negi, Dy. DA.

AWARD

The reference for adjudication, is as under:

“Whether the termination of services of Shri Meen Chand S/o Shri Narayan Dass by the Director, HP Institute of Public Administration, Fairlawns, Shimla-12 w.e.f. 28.2.1991 without complying with the provisions of the Industrial Disputes Act, 1947 as alleged by the workman is proper and justified? If not what relief of service benefits including reinstatement the above worker is entitled to ?”

2. In nutshell, the case of the petitioner is that he was engaged as Class-IV employee, on daily wages basis, by the respondent institution (hereinafter referred as respondent) in the year, 1987 and continued to serve it till 12.12.1989, when his services were retrenched without complying with the provisions of law. On 1.9.1990, he was again re-engaged by the respondent and remained posted as daily waged worker till 28.2.1991. It is alleged that his services, thereafter, were terminated without notice and paying retrenchment compensation as required under the law. Apart from this, the respondent re-engaged S/Shri Sher Singh, Khem Singh and Smt. Maina Devi. It is further asserted that it was the bounden duty of the respondent to have first offered appointment to him (petitioner) and in the event of his un-willingness, to join duties, the respondent should have engaged fresh hands. It is further averred that after his termination, the respondent has

also appointed S/Shri Dharam Prakash and Jagat Ram, as daily waged workers. This was done without giving an opportunity to the petitioner. Since, his services had been terminated, on 28.2.1991, without having complied with the provisions of the law, he deserves to be reinstated with all consequential service benefits.

3. The petition has been contested on having raised preliminary objections qua maintainability and that the same is hit by delay and laches because the same has been filed after about 19 years. On merits, it has been stated that the petitioner was engaged as part time casual worker and not on daily wage basis as Class-IV employee, as alleged. From his initial engagement, as such, on 10.8.1987, he continued upto 12.12.1989 @ 4.90, per hour for 4 hours per day as per rates revised by the Deputy Commissioner, Shimla. It is further explained that he had been engaged by different orders as part time worker, as and when his services were required, for specific period upto 12.12.1989, subject to the condition that his such appointment was not to confer any right for regular appointment. Due to non-availability of funds and work, his services were terminated w.e.f. 12.12.1989. When, the petitioner filed a Civil Writ Petition in the Hon'ble High Court, against his termination, in the month of Jan., 1990, the respondent in the mean-time sent a proposal to the Government for his re-engagement along-with other workers. In the month of August, 1990, the approval thereto was conveyed, for their reengagement, as part time casual worker, for 4 hours per day, upto 30.11.1990 vide letter dated 27.8.1990. Accordingly, the petitioner was informed vide letter dated 29.8.1990 to join duties on 1.9.1990, at 10:00 AM. In this way, his engagement was valid only upto 30.11.1990. The respondent, again took up his matter with the government so that his services could be continued due to heavy schedule of training programmes in the institute till Feb., 1991. The Government gave its approval upto 28.2.1991 or till the decision of Hon'ble High Court. Thus, on 6.12.1990, order for his engagement was issued as per the approval of the government. It is further averred that as per the directions of the Government, notice of termination of services was issued to the petitioner on 28.1.1991 vide which it was cleared that his services were not to be required after 28.2.1991. Such notice had also been issued to the similarly situated part time casual workers, some of whom were senior to the petitioner. By serving one month's notice upon the petitioner, as required under section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred as Act), the compensation was worked-out as per the provision contained in clause (b) of section 25-F of the Act in respect of the petitioner and other similarly situated workers. On having calculated their compensation, Bank Drafts were got prepared on 28.2.1991. The petitioner, who had been informed, in writing, to collect the compensation of retrenchment along-with wages for the month of Feb., 1991, refused to do the needful. Subsequently, the amount of compensation and wages for the month of Feb., 1991, were remitted to him, on 8.3.1991, by Bank Draft through registered post. Notice, in prescribed manner, was also sent to the Secretary, Labour Department to the Government of H.P who has been declared competent authority as per the Act. In this way, the services of the petitioner as well as other similarly situated workers had been terminated after having complied with the provisions of section 25-F of the Act. As far as Sher Singh, is concerned, he was engaged as Masalchi by Mess Co-operative society (Regd.), Fairlawns, Shimla (hereinafter referred as Society) for dish-washing. Shri Khem Chand had also been engaged by the Society, in Mess, for cleaning utensils etc. during the period 25.6.1996 to 30.6.1996 and 1. 7.1996 to 24.7.1996. Both the said workmen had not been engaged by the respondent. Similarly, Smt. Maina Devi was engaged as labourer in a Government of India sponsored programme for the reason that she was readily available for the work which was to be attended urgently. It is further maintained that S/Shri Dharam Prakash and Jagat Pal had been appointed, on daily wages basis, against vacant posts of regular class-IV, w.e.f. 24.12.1998, after getting the approval of the government to fill-up those posts. Before appointing them, the requisition had been sent to all the employment Exchanges of H.P to sponsor the names of the candidates for above posts. Their names had been sponsored by Sub Employment Exchange, Mashobra, Shimla. As far as the name of the petitioner is concerned, it was not sponsored by any of the Employment Exchange. On having received the names from the different Exchanges, the

interview of the candidates sponsored by the Exchanges were conducted and aforesaid Dharam Prakash and Jagat Pal were selected and sent appointment orders accordingly on 24.12.1998. Other allegations denied.

4. Rejoinder to the reply filed by the respondent, not filed despite having been afforded opportunities.

5. Pleadings of the parties gave rise to the following issues which were struck on 4.9.2010.

1. Whether the services of the petitioner were terminated against the provisions of the Industrial Disputes Act, 1947 in an unjustified manner as alleged? . . . *OPP*.

2. If issue no.1 is proved, to what relief of service the petitioner is entitled to? . . . *OPP*.

3. Relief.

6. I have heard Ld Counsel for the parties and have also gone through the record of the case carefully.

7. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue no.1 No.

Issue no.2 Becomes redundant.

Relief. Reference answered against the petitioner and in favour of respondent, per operative part of award.

Reasons for findings

Issue no.1.

8. From the facts, which have been stated in the petition, it is highlighted that as per the petitioner, he had been engaged as class-IV employee, on daily wage basis, by the respondent in the year, 1987 and continued to remain, as such, till 12.12.1989, when his services were retrenched without having complied with the provisions of the Act. On 1.9.1990, he was again re-engaged, as daily wagger worker, and remained posted, as such, till 28.2.1991, when his services were again terminated without having complied with the provisions of the Act. The contention of the petitioner is further to this effect that after his termination, the respondent re-engaged S/Shri Sher Singh, Khem Singh and Smt. Maina Devi, without having offered him job/work. His plea is further to this effect that even S/Shri Dharam Prakash and Jagat Pal, had been appointed as daily waged workers after his termination.

9. On the other hand, the defence version is to this effect that the petitioner had been engaged as part time casual worker on 10.8.1987 and continued, as such, till 12.12.1989 on wages @ ₹ 4.90 per hour for 4 hours, as per different orders, as and when his services were required. When, in the month of Jan., 1990, the petitioner had filed a Civil Writ Petition before the Hon'ble high Court, in the mean-time, the respondent had sent a proposal to the government for his re-engagement along-with others, in the month of August, 1990 and vide letter dated 27.8.1990, the Government conveyed its approval for their re-engagement for 4 hours per day upto 30.11.1990,

which was further extended by the government upto 28.2.1991. In these circumstances, the orders for the reengagement of the services of the petitioner had been issued on 6.12.1990. It is further the contention of the respondent that as per the directions of the Government, notice of termination was issued to the petitioner on 28.1.1991 stating therein that his services were not to be required after 28.2.1991 and retrenchment compensation was also worked-out which had to be remitted to the petitioner by Bank draft through registered post, since, he had refused to receive the same.

10. The petitioner (PW-1), in his affidavit Ex. PW-1/A, has supported the facts as stated in the petition on all material particulars including that his services had firstly been terminated on 12.12.1989 and thereafter, he was re-engaged on 1.9.1990 but the same were again terminated on 28.2.1991, without having complied with the provisions of the Act. The respondent also re-engaged S/Shri Sher Singh, Khem Singh and Smt. Maina Devi besides having appointed S/Shri Dharam Prakash and Jagat Pal, after his termination. The respondent was required to offer him the appointment, on daily wage basis, instead of re-engaging/appointing the aforesaid persons. In the cross-examination, he denied that he was engaged as part time casual worker and not as class- IV daily waged employee. He further denied that he had been engaged only for 4 hours per day. During the period, when he had filed a Writ Petition, before the Hon'ble High Court, in the month of August, 1990, he was engaged as part time worker and continued to remain as such till 30.11.1990. He expressed his lack of knowledge that as per letter dated 1.9.1990, his services had been re-engaged upto 28.2.1991 or till the decision of the Hon'ble High Court. He further expressed his lack of knowledge, in this regard, that he had been issued an order on 6.12.1990. He admitted that order Ex. R-1 dated 28.1.1991, had been given to him by the respondent. He denied that, in writing, he had been informed by the respondent to receive the retrenchment compensation along-with wages for the month of Feb., 1991. He admitted that later on, the amount of compensation and wages for the month of Feb., 1991, had been sent to him by Bank Draft through registered post on 8.3.1991, which he had received. He expressed his ignorance that Sher Singh and Khem Singh had been engaged by Mess Co-operative Society (regd.), Fairlawns, Shimla, as Masalchi, and utensil cleaners. He admitted that S/Shri Dharam Prakash and Jagat Pal, had been appointed, as daily wagers, against vacant post of regular class-IV employees, on 24.12.1998. Before their appointments, requisitions had been sent to all the Employment Exchanges to sponsor the names of candidates for the posts. His name had not been sent by the employment Exchange. Thereafter, the interview of the candidates, including Dharam Prakash and Jagat Pal, had been got conducted and they were selected. Ex. R-2 bears his signatures.

11. Shri Kishore Krishan Sharma (RW-1) states that he has been authorized by the Director of H.I.P.A (respondent) to give evidence. His affidavit is Ex. RW-1/A. Ex. RW-1/B, is the photocopy of letter dated 29.8.1990, which is correct as per original brought by him. Letters dated 27.8.1990 and 3.12.1990, are Ex. RW-1/C and Ex. RW-1/D. Ex. R-2, is the office order dated 6.12.1990. Ex. RW- 1/E, is the copy of letter dated 8.3.1991. Ex. RW-1/F, is the office order dated 28.1.1991, which was received by the petitioner, as is evident from its back-side. Ex. RW-1/G, is the letter dated 8.3.1991, in which the name of the petitioner has been shown encircled red "A". The amount was received by the petitioner through Bank Draft, the receipt of which is Ex. RW-1/H, in which, there is mention of the name of the petitioner encircled red "A". Ex. RW-1/J, is the requisition form and Ex. RW-1/K, is the list of the candidates sponsored by the employment Exchange. The name of the petitioner had not been sponsored by any of the Employment Exchange. In the cross-examination, he admitted that in Ex. RW-1/A, there has been no such mention that he was authorized by the department to give evidence before this Court. He admitted that in order to send the name of the petitioner, he had not written to the Employment Exchange. He was not in the department during the period to which the present case pertains. He denied to have deposed falsely.

12. From the evidence of RW-1 Shri Kishore Krishan Sharma, it is abundantly clear that the petitioner had been initially engaged, on 10.8.1987, as part time casual worker, on wages @ ` 4.90 per hour for 4 hours per day. Here, I may like to pointout that no such appointment order/letter has been brought, on file, by the petitioner which could go to show that his initial appointment was as daily waged, class-IV employee. The evidence, on record, also goes to show that when the petitioner was disengaged w.e.f. 12.12.1989, he filed a Writ Petition before the Hon'ble High Court and in the mean-time, the department had sent a proposal to the Government for his reengagement along-with other workers. Ex. RW-1/C, is the letter dated 27.8.1990, as per which, the Government had given its approval for the reengagement of the petitioner along-with others (in all five), as part time casual workers, upto 30.11.1990. In this regard, vide letter dated 29.8.1990, Ex. RW-1/B, the petitioner along-with other 4 workers, had been informed. There is another letter dated 3.12.1990, Ex. RW-1/D, on record, which goes to show that as per it , the Government had again given its approval for the extension of the services of the petitioner as well as 4 other part time workers upto 28.2.1991 or till the decision of the Hon'ble High Court, whichever was earlier. Consequent upon the aforesaid approval dated 30.12.1990 (Ex. RW-1/D), the petitioner, along-with others, was informed vide office order dated 6.12.1990 (Ex. R-2), on which his signatures are encircled red "A". Here, I may like to point-out that as per letter dated 29.8.1990 (Ex. RW-1/B), it had been brought to the notice of the petitioner along-with other 4 workers that their reengagement upto November, 30. 1990, was as part time casual workers, for 4 hours per day and not as daily wage basis as alleged by the petitioner. When, the engagement of the petitioner, alongwith other 4 workers, was extended by the Government vide letter dated 3.12.1990, Ex. RW-1/D, they had been informed in this regard as per office order dated 6.12.1990 (Ex. R-2), which was noted/received by the petitioner by signing the same encircled red "A". In this office order, it has also been clearly mentioned that his engagement was as part time casual worker for 4 hours in a day.

13. From the documents, which have been referred to above, it is abundantly clear that the petitioner along-with other 4 workers had been made known, from the very beginning, that their engagements had been as part time casual workers for 4 hours per day. Thus, the contention of the petitioner that his engagement was as class-IV daily waged employee and evidence led in support thereof cannot be believed. The petitioner, along-with others, had also been informed vide Ex. R-2 that his services were to come to an end by Feb., 1991. In this way, the evidence, on record, is clear enough to prove that it had been brought to the notice of the petitioner, along-with other 4 workers, that their engagement was for 4 hours per day as part time casual worker and that vide office order dated 6.12.1990 (Ex. R-2), the same was to come to an end from Feb., 1991. Here, I may also like to point out that vide Ex. RW-1/D (letter dated 3.12.1990), the services of the petitioner alongwith other 4 workers had been extended with the prior approval of the Government. Thus, the services of the petitioner, along-with other 4 workers, could have been extended beyond Feb., 1991 by the prior approval of the Government and not by the respondent itself. When, there was no prior approval of the Government, to extend the services of the petitioner, along-with other 4 workers, beyond Feb., 1991, the respondent issued an order/notice dated 28.1.1991, Ex. RW-1/F, whereby, the petitioner, along-with other 4 workers, was informed that on 28.2.1991, his services were to stand disengaged and this order/notice was also got noted to the petitioner as is evident from his name and signatures encircled red "A". This goes to show that before disengaging the services of the petitioner, he had been given one month's notice. The respondent had also got prepared retrenchment compensation along-with wages of the petitioner for the month of Feb., 1991. Since, the same had not been received by the petitioner, those were got sent to him by Bank Draft through registered post, which is evident from Ex. RW-1/A and Ex. RW-1/G. It is to be noted that as far as retrenchment compensation and wages for the month of Feb., 1991 are concerned, the petitioner (PW- 1), has admitted to have received the same. Thus, the evidence, which has been referred to above, clearly goes to show that before disengaging the services of the petitioner, the respondent had also complied with the provisions of the Act as contained in section 25-F.

14. Another contention of the petitioner is that after his termination, the respondent had reengaged the services of S/Shri Sher Singh, Khem Singh and Smt. Maina Devi besides appointing S/Shri Dharam Prakash and Jagat Pal. In its reply, the respondent has categorically stated that as far as the services of S/Shri Sher Singh and others are concerned, those were engaged by Mess Cooperative Society, Fairlawns, Shimla (registered). As far as the services of Smt. Maina Devi are concerned, the same has been engaged in a Government of India sponsored programme for the reason that she was readily available for the work which was to be attended urgently. This makes it clear that the respondent had not engaged the aforesaid persons. Moreover, no such record has been brought by the petitioner, in order to show, that the above said persons were junior to him. It is to be noted that S/Shri Dharam Prakash and Jagat Pal have been appointed on daily wage basis against vacant regular class-IV posts w.e.f. 24.12.1998 from the candidates whose names had been sponsored by different Employment Exchanges. Ex. RW-1/J, is requisition form, as per which, the respondent had requisitioned the names of the candidates for two posts of class-IV, on daily wages, at 51 per pay/ rate fixed by the Government, from time to time. Ex. PW- 1/C, is the list of the candidates sponsored by the Employment Exchange, Mashobra. In this list, the names of Dharam Prakash and Jagat Pal figure. It had been admitted by the petitioner (PW-1), that the department (respondent) had sent requisition to the employment Exchange for sponsoring the names of the candidates and the names of the Dharam Prakash and Jagat Pal had also been sponsored. He further admits that the interview of the sponsored candidates, including Dharam Prakash and Jagat Pal, had been taken and thereafter both were given appointment.

15. Thus, from the evidence, referred to above, it is quite clear that both Dharam Prakash and Jagat Pal had been appointed as Class-IV, daily wagers, on having followed the procedure, against regular posts. In this way, the contention of the petitioner that there has been violation of section 25-G & H by respondent is of no avail.

16. Consequently, for what has been stated and observed above, I hold that the petitioner has failed to prove this issue to which my answer is in “no”.

Issue no. 2.

17. Since, issue no.1 has been replied in negative, this issue becomes redundant.

Relief

As a sequel to my findings on the aforesaid issues, the claim of the petitioner fails and is hereby rejected and as such, the reference is answered in favour of the respondent and against the petitioner. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today on this 31st day of July, 2014.

(A.S JASWAL),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNALCUM-
LABOUR COURT, SHIMLA.

Ref no. 43 of 2007.

Instituted on 2.7.2007.

Decided on 17.7.2014.

Pritam Singh S/o Shri Sarwan Singh C/o Shri Ramashray Prasad, Village Marhanwala, Near
PNB, P.O Nanakpur, District Panchkula, Haryana. . *Petitioner.*

VS.

1. The Managing Director M/s Hem Builders and Colonizers, knifed Building Top Floor Tapri, Tehsil Nichar, District Kinnaur, HP.
2. The Manager, M/s Hem & Noble Biotech Laboratories (P) Ltd., Haripur Road, P.O Barotiwala, District Solan, HP. . *Respondents.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner: Shri Rakesh Manta, Advocate.

For respondents: Shri Surender Saklani, Advocate.

AWARD

The reference for adjudication, is as under:

“Whether the termination of services of Shri Pritam Singh S/o Shri Sarwan Singh workman by the (1) Managing Director M/s Hem Builders and Colonizers, knifed Building Top Floor Tapri, Tehsil Nichar, District Kinnaur, HP (2) The Manager, M/s Hem & Noble Biotech Laboratories (P) Ltd., Haripur Road, P.O Barotiwala, District Solan, HP w.e.f. 12.10.2004 without complying the provisions of the Industrial Disputes Act, 1947 is proper and justified? If not what relief of service benefits and amount of compensation the above aggrieved workman is entitled to? ”

2. In nutshell, the case of the petitioner is that on 12.11.1996, he (petitioner) was engaged by respondent no.1, as Auto Electrician, at Kinnaur and continuously worked till 22.7.2004. Thereafter, he was transferred from Kinnaur to M/s Hem and Noble, Baddi (respondent no.2). The petitioner joined, at Baddi, in August, 2004 and worked continuously till 11.10.2004. On 12.10.2004, his services were illegally terminated, by respondent no.2, on false and frivolous reasons. When his services were orally retrenched, he was receiving Rs. 5800/- per month. In each calendar year, he had completed 240 days. Apart from this, his juniors were also retained by the respondents. He has also not received salary w.e.f. 11.10.2004, besides other service benefits till date, the detail of which has been given in para 6 of the claim petition, amounting to total Rs. 10,02,900/-, which amount be got paid to him, from the respondents. Since, his services were terminated, without notice and retrenchment compensation, in violation of the provisions of the Industrial Disputes Act, 1947 (hereinafter referred as Act), he deserves to be reinstated along-with all consequential service benefits including back wages.

3. By filing separate reply, respondent no.1 contested the claim of the petitioner on having raised preliminary objections including maintainability. On merits, it has been asserted that the petitioner had been appointed purely on contractual basis for the purpose of the work assigned to the replying respondent in the Nathpa Jhakri Power Project (hereinafter referred as Project) and that his appointment was intended to be coterminus with the completion of the work of the Project. The employment of the petitioner came to an end, *ispo-facto* when the work of the project was over. Thus, his discontinuation, in service, cannot be termed as retrenchment. It is further maintained that while engaging the petitioner, he had been specifically told that his services were purely on contract basis and were to come to an end, with the completion of Project work. Thus, he (petitioner), along-with other similar situated employees, was disengaged, as soon as the work, in the Project, was over. It has been denied that the petitioner was receiving Rs. 5800/- per month. It is denied that the petitioner had been transferred to respondent no.2 at Barotiwala. Further, respondent no 2, is not a construction company. In fact, it is a company involved in business of pesticide formulation and allied activities. Other allegations denied.

4. Rejoinder not filed. Pleadings of the parties gave rise to the following issues which were struck on 17.11.2012.

5. Whether the termination of services of petitioner by the respondents *w.e.f.* 12.10.2004, is in violation of the provisions of Industrial Disputes Act, 1947? ..*OPP.*
6. If issue no.1 is answered in affirmative, to what service benefits, the petitioner is entitled to? ..*OPP.*
7. Whether this petition is not maintainable? ..*OPR.*
8. Whether the petitioner is not covered within the definition of workman under the Industrial Disputes Act, 1947? ..*OPR.*
9. Relief.

5. I have heard Ld Counsel for the parties and have also gone through the record of the case carefully.

6. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue no.1 Yes.

Issue no.2 Entitled to lump sum compensation.

Issue no.3 No.

Issue no.4 No.

Relief. Reference answered in favour of the petitioner, per operative part of award.

Reasons for findings

Issue no.1&2.

7. Being interlinked, both these issues are taken up for discussion and decision.

8. It has been specifically pleaded by the petitioner that On 12.11.1996, he had been engaged as Auto Electrician by respondent no.1 and that he worked upto 22nd July, 2004 at Kinnaur in the Project. His version is further to this effect that 22.7.2004, he was transferred from the Project (at Kinnaur) to second establishment at Barotiwala (respondent no.2), where he continuously worked up to 12.10.2004, when his services were orally retrenched.

10. Whereas, respondent no.1 has come up with a specific plea that the petitioner had been appointed purely on contract basis for the purpose of the work assigned to it (respondent no.1), in the Project at Kinnaur and that his such appointment was to be co-terminus with the completion of work in the said Project. It has further been clarified that while engaging the petitioner, he had been specifically told that his services were purely on contract basis and were come to an end as soon as the work which was Project based, was finished. Thus, according to respondent no.1, the services of the petitioner had not been retrenched.

11. While appearing in the witness box as PW-1, the petitioner has stated that initially, he has been engaged as auto electrician on 12.11.1996, in M/s Hem Builders and Colonizers at Jhakri (respondent no.1) and worked continuously till 22.7.2004. Thereafter, he was transferred from Tapri to Barotiwala with respondent no.2, where he worked till 12.10.2004. He was terminated without any notice and compensation. AT that time, he was receiving Rs. 5800/- as salary per month. He had served demand notice upon the management, which is Ex. PW-1/A. At the time of his retrenchment, juniors to him were retained. The copy of daily attendance, issued by respondent no.1, is Ex. PW-1/B. At present, he is not gainfully employed. In cross-examination, he does not remember that he had given him any appointment letter or not. The company, in which he was working, had taken the work from another company. Their company, at the relevant time, was working on contract basis. He denied that the company which was Project based/doing contract work, had told the workers that their services would come to an end on the completion of the work. He admitted that no transferred letter had been issued to him.

14. Shri Hem Chand Sharma (RW-1) states that whatever work is carried out by their company, the same is Project based. In order to do the works which are taken by the respondent company, casual labourers are engaged. Those laboursrs are told that their services would come to an end after the completion of work. As soon as the work of the Project was completed, the services of the workers stood disengaged. The attendance of the casual labourers is being marked at the site and accordingly, they are paid salary/wages. In the crossexamination, he stated that he is the Chairman-cum-Managing Director of M/s Hem Builders and Colonizers, which is a private ltd., company. He does not know as to when the petitioner had been engaged. He denied that in 1996, he (petitioner) had been engaged as electrician on monthly salary of Rs. 5800/-. The muster rolls of the workers are prepared by the company and they are paid salaries accordingly. He does not remember that the petitioner had worked with their company (respondent no.1) till 23.7.2004. Anmol Sharma is his son who at present is the Managing Director of M/s Hem Builders. M/s Hem & Noble (respondent no.2), is second company. He denied that both the companies are sister concern. He is the Chairman of M/s Hem and Noble (respondent no.2). He denied that on 23.7.2004, the petitioner had been transferred from Jhakri to Baddi. Self stated that casual labourers cannot be transferred.

15. From the evidence of Shri Hem Dutt Sharma (RW-1), it is quite clear that he admits that the petitioner had been engaged by their company (respondent no.1). According to him, since the work which had been taken by their company was Project based, the workers who had been engaged were casual and that their services came to an end with the completion of the work. At the time of their engagement, they (workers) had also been told in this regard. His evidence further makes it clear that he is the Chairman of M/s Hem and Noble (respondent no.2). He denied that on 22.7.2004, the petitioner had been transferred from M/s Hem Builders and Colonizers, at Jhakri (respondent no.1) to M/s Hem and Noble (respondent no.2).

16. It has been stated by the petitioner (PW-1) that in the month of August, 1996, he had been engaged as electrician by the respondent no.1 at Jhakri, on fixed monthly salary of Rs. 58,00/- and worked continuously till 22.7.2004. Thereafter, he had been transferred from Jhakri to Barotiwala with respondent no.2. He further made it clear that his services had been terminated without any notice and compensation on 12.10.2004. It is true that as per the contention of respondent no.1, the petitioner had been engaged as casual worker in order to do the Project work and that his services were came to an end with the completion of Project work but in this regard no appointment letter/contract has been brought, on record, which could go to show that while engaging the services of the petitioner, as foreman, either he has been told that his services were came to an end with the completion of the Project work or that in this regard, there has been specific contract between the parties. In the cross-examination of petitioner (PW-1), he has denied that at the time of his engagement, he had been told that since the company had taken the work on contract basis for this reason his services were deemed to have come to an end with the completion of the Project work. I may mention that it is for the employee to show that what was the nature of his engagement/employment. In the instant case, from the statement of petitioner as PW-1, it is clear that he had not been told by the respondent no.1 that his services were for a specific period or that the same were deemed to have come to an end on the completion of the Project work. When, from the evidence, led by petitioner (PW-1), it came on record that his services were not for a specific period/contractual basis then it was obligatory upon the respondents particularly respondent no.1 to have brought, on record, document/appointment letter as per which the petitioner had been allegedly engaged for a specific period i.e. till the completion of Project work or that his such engagement was contractual for a specific period. In his evidence, the petitioner (PW-1) has stated that neither he had been given any notice nor paid retrenchment compensation. He also proved, on record, that in each calendar year, he had completed 240 days. Thus, his disengagement, from service, has to be considered as retrenchment as defined under section 2(oo) of the Act.

17. On behalf of respondents reliance has been placed on Ganga Kishan Sahakari Chini Mills Ltd. Vs. Jai Veer Singh (2007) 7 SCC 748, that it was upon the employee (petitioner) to prove the nature of his appointment but as I have already stated that the petitioner, from his own evidence, has discharged his burden to prove that when he was engaged/appointed, it had not been told to him that his services were being engaged for a specific for a stipulated period and that the same were to come to an end after the completion of the Project work. It has also been observed by me that to rebut such evidence of the petitioner, (PW-1), the respondents have not produced any such document/contract which could go to show that at the time of engagement of the petitioner, he had been told that his services were came to an end on the completion of the Project work or that in this regard, there have been any contract between the parties. Since, the services of the petitioner had been retrenched without notice and retrenchment compensation, the same are in violation of the Provisions of the Act.

18. Now, the question arises as to what service benefits, the petitioner is entitled to. The petitioner has led evidence that he was appointed on 12.11.1996 and continued to do work with respondent no.1 at Kinnaur till 22.7.2004 and thereafter, he was transferred to respondent no.2 at Barotiwala where he worked till 11.10.2004 and that on 12.10.2004, his services were terminated, without notice and retrenchment compensation. Here, I would like to point out that from the evidence of the petitioner (PW-1), it is revealed that at Jhakri (Kinnaur) where the petitioner had been working with respondent no.1, no work is underway. Having regard to all the facts and circumstances of the case, I am of the view that instead of ordering the reinstatement of the petitioner, it would be in the interest of justice, if, he is awarded lump sum compensation. The Hon'ble Supreme Court in Santosh Kumar Seal and others reported in 2010 LLR 677: 2010 III CLR 17 SC, has held that : relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure

and that mandatory compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate.

19. In Jagbir Singh Vs. Haryana State Agricultural Marketing Board (2009) 15 SCC 327, the Hon'ble Supreme Court has held that: "It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and may be wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice. "

20. The petitioner has led evidence that he was getting Rs. 5800/- per month as salary. No such document has been produced by the respondents in order to rebut his such evidence. It has also come on record that respondent no.1 is not carrying out any work at Jhakri (Kinnaur). Taking into account all the facts and circumstances of the case, the ends of justice would meet if the compensation in lieu of back wages and other service benefits is awarded to the petitioner. in my view, he (petitioner) is entitled to receive a suitable, appropriate, just and equitable compensation from the respondents and it would be quite reasonable and justified if the petitioner is awarded lump sum compensation of Rs. 1.20,000/- (one lakh twenty thousand only) instead of reinstatement. Consequently, my answer to issue no.1 is in "yes", it is accordingly to issue no.2.

Issue no.3.

21. An objection has been taken by the respondent no.1 that the claim which has been filed before this Court, by the petitioner, is not maintainable. I may mention that consequent upon the reference which was made to this Court, by the appropriate government, the petitioner filed his statement of claim. Since, the reference, which has been made to this Court, is required to be answered, it cannot be said that the claim petition, which has been filed by the petitioner, consequent thereupon, is not maintainable. Thus, I hold it to be maintainable and my answer to this issue is in "No".

Issue no.4.

23. Section 2(s) of Industrial Disputes Act, 1947 reads as under: "workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
- (ii) who is employed in the police service or as an officer or other employee of a prison; or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached

to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

The aforesaid provision of law makes it clear that a person who is employed in Supervisory capacity will not be treated as a workman. The petitioner while appearing in the witness box as PW-1, has stated that he was getting Rs. 5800/- per month. It has been admitted by RW-1 (Hem Chand Sharma) that the petitioner had been engaged as casual laborer. Moreover, no such evidence has been led by the respondents that the petitioner was doing his work in a supervisory capacity. According to the petitioner, he had been engaged as mechanic. Thus, there is no material, whatsoever, on record, which could go to show that the petitioner at the relevant time was not a workman. Accordingly, my answer to this issue is in "no".

Relief

As a sequel to my findings on the aforesaid issues, the claim of the petitioner is allowed and as such the respondent no.1 is directed to pay Rs. 1,20,000/- (Rs. One lakh twenty thousand only), as lump sum compensation to the petitioner within two months from today failing which the same shall carry interest @ 9% per annum. The reference is answered accordingly. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today on this 17th day of July, 2014.

(A.S JASWAL),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA.

Ref no. 179 of 2006.

Instituted on 30.12.2006.

Decided on 17.7.2014.

Karnail Singh S/o Shri Ram Sarup C/o Shri Ramashray Prasad, Village Marhanwala, Near PNB, P.O Nanakpur, District Panchkula, Haryana. . .*Petitioner.*

VS.

3. The Managing Director M/s Hem Builders and Colonizers, knifed Building Top Floor Tapri, Tehsil Nichar, District Kinnaur, HP.

4. The Manager, M/s Hem & Noble Biotech Laboratories (P) Ltd., haripur Road, P.O Barotiwal, District Solan, HP. . .*Respondents.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner: Shri Rakesh Manta, Advocate.

For respondents: Shri Surender Saklani, Advocate.

AWARD

The reference for adjudication, is as under:

“Whether the termination of services of Shri Karnail Singh S/o Shri Ram Sarup workman by the (1) Managing Director M/s Hem Builders and Colonizers, knifed Building Top Floor Tapri, Tehsil Nichar, District Kinnaur, HP (2) The Manager, M/s Hem & Noble Biotech Laboratories (P) Ltd., Haripur Road, P.O Barotiwala, District Solan, HP w.e.f. 12.10.2004 without complying the provisions of the Industrial Disputes Act, 1947 is proper and justified? If not what relief of service benefits and amount of compensation the above aggrieved workman is entitled to?”

2. In nutshell, the case of the petitioner is that respondent no.1 (M/s Hem Builders and Colonizers), is a construction company working with the government undertakings in order to carry out construction works. As far as respondent no.2 (M/s Hem & Noble Biotech Laboratories (P) Ltd.) is concerned, it is its sister unit. In the month of August, 1996, he (petitioner) was engaged by respondent no.1, as Mechanic Foreman and continuously worked, at Kinnaur, till 22.7.2004. After completing more than seven years of service with respondent no.1, on 23.7.2004, he was transferred from NJPC Kinnaur to second establishment (respondent no.2.) where he worked upto 11.10.2004, on which date, he was asked by the Personnel Manager, not to come on duty from 12.10.2004, on the plea that his work and conduct was not satisfactory. At that time, he had also been asked to take his earned wages for eleven days, for the month of October, 2004. When his services were orally retrenched, he was receiving Rs. 8,200/- per month. In each calendar year, he had completed 240 days. Apart from this, his juniors were also retained by the respondents. It is further made clear that at the relevant time, respondent no.1 was working with Nathpa jhakri (NJPC) and other projects of government undertakings. Since, his services were terminated without notice and retrenchment compensation, in violation of the provisions of the Industrial Disputes Act, 1947 (hereinafter referred as Act), he deserves to be reinstated along-with all consequential service benefits including back wages.

3. By filing separate reply, respondent no.1 contested the claim of the petitioner on having raised preliminary objections including maintainability. On merits, it has been asserted that the petitioner had been appointed purely on contractual basis for the purpose of the work assigned to the replying respondent in the Nathpa Jhakri Power Project (hereinafter referred as Project) and that his appointment was intended to be coterminus with the completion of the work of Project. The employment of the petitioner came to an end, ispo-facto when the work of the project was over. Thus, his discontinuation, in service, cannot be termed as retrenchment. It is further maintained that while engaging the petitioner, he had been specifically told that his services were purely on contract basis and were to come to an end, with the completion of Project work. Thus, he (petitioner), along with other similar situated employees, was disengaged, as soon as the work, in the Project, was over. It has been denied that the petitioner was receiving Rs. 8,200/- per month. Other allegations denied.

4. Respondent no.2, has also contested the claim of the petitioner by raising preliminary objections qua maintainability and bad for misjoinder of parties. On merits, it has been asserted that the replying respondent is not a construction company. In fact, it is a company involved in the business of pesticide formulation and allied activities. The replying respondent has come into existence on 2.7.2003. It has been denied that the petitioner had been engaged by the replying respondent, in August, 1996. Other allegations denied.

5. By filing rejoinder, the petitioner has asserted that Shri Anmol Sharma was the Managing Director of M/s Hem Builders and Colonizers Ltd., during the period in dispute. In the initial claim, which has been filed by the petitioner, in pursuance of demand notice through authorized representative Shri Ramasrey Prasad, the name of Managing Director Shri Anmol Sharma was mentioned as respondent no.1 but inadvertently it could not be got reflected that he was the Managing Director of Hem Builders and Colonizers. Such omission has been rectified by filing amended memo of parties. As far as respondent no.2 (M/s Hem & Noble Biotech Laboratories (P) Ltd.) is concerned, it is the sister concern of respondent no.1, wherefrom he (petitioner) was transferred on 23.7.2004. Further, the Managing Director of M/s Hem Builders and Colonizers is aware of the fact that the petitioner had been engaged with respondent no.1, in August, 1996 and continuously worked till 22.7.2004, at Nathpa Jhakri without any break or interruption by completing 240 days in each calendar year. Moreover, the respondents are trying to intermingle both the concerns i.e respondent no.1 & 2, by showing the incorporation of respondent no.2, on 2.7.2003. As a matter of fact, he (petitioner) had joined with respondent no.2 only in the month of August, 2004, after his transfer from Nathpa Jhakri. After his illegal retrenchment, the petitioner has not been gainfully employed. He has also not received salary w.e.f. 1.10.2004 besides other service benefits till date, the detail of which has been given in para 3 of the rejoinder, amounting to total Rs. 8,89,500/-, which amount be got paid to him, from the respondents.

6. On the pleadings of the parties, following issues were framed on 21.11.2008 and an additional issue on 18.7.2011.

10. Whether the termination of services of Shri Karnail Singh petitioner by the respondents' w.e.f. 12.10.2004, without complying with the provisions of Industrial Disputes Act, 1947 is improper and unjustified? . . .OPP.
11. If issue no.1 is proved, to what relief of service benefits and amount of compensation, the petitioner is entitled to? . . .OPP.
12. Whether the petition is not maintainable as alleged? . . .OPR.
13. Whether the petition is bad for misjoinder of parties? . . .OPR.
- 4A. Whether the petitioner is not a workman? . . .OPR.
14. Relief.

7. I have heard Ld Counsel for the parties and have also gone through the record of the case carefully.

8. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue no.1 Yes.

Issue no.2 Entitled to lump sum compensation.

Issue no.3 No.

Issue no.4 No.

Issue no.4A. No.

Relief.

Reference answered in favour of the petitioner, per operative part of award.

Reasons for findings***Issue no.1&2.***

9. Being interlinked, both these issues are taken up for discussion and decision.

10. It has been specifically pleaded by the petitioner that in the month of August, 1996, he had been engaged as mechanic foreman by respondent no.1 and that he worked upto 22.7.2004 at Kinnaur in the Project. His version is further to this effect that on 23.7.2004, he was transferred from the Project (at Kinnaur) to second establishment at Barotiwala (respondent no.2), where he continuously worked up to 12.10.2004, when his services were orally retrenched.

11. Respondent no.1 has come up with a specific plea that the petitioner had been appointed purely on contract basis for the purpose of the work assigned to it (respondent no.1), in the Project at Kinnaur and that his such appointment was to be co-terminus with the completion of work in the said Project. It has further been clarified that while engaging the petitioner, he had been specifically told that his services were purely on contract basis and were come to an end as soon as the work which was Project based, was finished. Thus, according to respondent no.1, the services of the petitioner had not been retrenched.

12. The stand of the respondent no. 2 is that neither it had appointed the petitioner nor there is any relationship of employer and employee between the parties.

13. While appearing in the witness box as PW-1, the petitioner has stated that initially, he had been engaged as foreman in August, 1996 in M/s Hem Builders and Colonizers at Jhakri on a fixed salary of Rs. 8,200/- per month and worked continuously till 22.7.2004. Thereafter, he was transferred, by respondent no.1, from Tapri to Barotiwala with respondent no.2. At Baddi, he had joined on 23.7.2004 where he worked till 11.10.2004. On 12.10.2004, he was terminated without any notice and compensation. He had served demand notice upon the management, which is Ex. PA and it was replied by the respondents vide Ex. PB. Respondent no.2, had also written a letter to Labour Inspector-cum Conciliation Officer, Baddi, the copy of whereof was supplied to him. At present, he is not gainfully employed. While cross-examined on behalf of respondent no.1, he stated that he had been engaged on regular basis but the company (respondent no.1) had not given him any appointment letter. Self explained that at that time, it had been told that the same shall be given later on. The company, in which he was working, had taken the work from another company. They had been doing the work of transportation. Their company, at the relevant time, was working on contract basis. He has got no salary receipt issued by the company. He denied that the company which was Project based/doing contract work, had told the workers that their services would come to an end on the completion of the work. He further explained that the company had transferred them from Kinnaur to Baddi and later on it was told that the company had no work. He had not been given any transfer letter/relieving order by the company while transferring him from Kinnaur to Baddi. He had also not given any appointment letter. He used to do the work of Motor Mechanic at Kinnaur. Despite having been transferred to another place, the work of Motor Mechanic was being taken from him. When crossexamined, on behalf of respondent no.2, he stated that in the month of August, 1996, he had been engaged by respondent no.1, at Jhakri. He has not brought any document/record in respect of his work/job with respondent no.2 He denied that with respondent no.2, he had never worked.

14. Shri Hem Chand Sharma (RW-1) states that whatever work is being carried out by their company, the same is Project based. In order to do the works which are taken by the

respondent company, casual labourers are engaged. Those laburesrs are told that their services would come to an end after the completion of work. As soon as the work of the Project was completed, the services of the workers stood disengaged. The attendance of the casual labourers is marked at the site and accordingly, they are paid salary/wages. In the crossexamination, he stated that he is the Chairman-cum-Managing Director of M/s Hem Builders and Colonizers, which is a private Ltd., company. He does not know as to when the petitioner had been engaged. He denied that in the month of August, 1996, he (petitioner) had been engaged as foreman on monthly salary of Rs. 8200/-. The muster rolls of the workers are prepared by the company and they are paid salaries accordingly. He does not remember that the petitioner had worked with their company (respondent no.1) till 23.7.2004. Anmol Sharma is his son, who, at present is the Managing Director of M/s Hem Builders. M/s Hem & Noble (respondent no.2), is second company. He denied that both the companies are sister concern. He is the Chairman of M/s Hem and Noble (respondent no.2). He denied that on 23.7.2004, the petitioner had been transferred from Jhakri to Baddi. Self stated that the casual labourers cannot be transferred. Ex. PB and Ex. PC have been issued by them and that the same are correct.

15. From the evidence of Shri Hem Dutt Sharma (RW-1), it is quite clear that he admits that the petitioner had been engaged by their company (respondent no.1). According to him, since the work which had been taken by their company was Project based, the workers who had been engaged were casual and that their services came to an end with the completion of the work. At the time of their engagement, they (workers) had also been told in this regard. His evidence further makes it clear that he is the Chairman of M/s Hem and Noble (respondent no.2). He denied that on 23.7.2004, the petitioner had been transferred from M/s Hem Builders and Colonizers, at Jhakri (respondent no.1) to M/s Hem and Noble (respondent no.2) but admits that Ex. PB and Ex. PC are correct and the same had been issued by them. Here, I would like to refer to Ex. PB, which is the reply filed by M/s Hem and Noble (respondent no.2) before Labour Inspector-cum- Conciliation Officer, Baddi consequent upon the demand notice under section 2-A of the Act, which is Ex. PA. From this reply, it is revealed that Karnail Singh (petitioner) was working with M/s Hem and Noble (respondent no.2) because as per the same he had been given verbal warnings from time to time as his behaviour and conduct was not satisfactory. Despite that, he failed to improve himself and kept on indulging in various acts of irregularities, inefficiency etc., At last, he took his final wages and did not turn up to join his duties. From the reply Ex. PB, which had been filed by respondent no.2 in response to demand notice Ex. PA, it is quite clear that the petitioner had been issued warnings and that he had also been asked to improve his work and conduct which he failed to do and finally, on his own, he did not turn up to join his duties. This goes to show that as per the reply Ex. PB, the petitioner, on his own, had left the work/job of respondent no.2.

16. It has been stated by the petitioner (PW-1) that in the month of August, 1996, he had been engaged, as foreman, by respondent no.1 at Jhakri, on fixed monthly salary of Rs. 8,200/- and worked continuously till 22.7.2004. Thereafter, he had been transferred from Jhakri to Barotiwala with respondent no.2. He further made it clear that his services had been terminated, without any notice and compensation, on 12.10.2004. It is true that as per the contention of respondent no.1, the petitioner had been engaged as casual worker in order to do the Project work and that his services were to come to an end with the completion of Project work but in this regard no appointment letter/contract has been brought, on record, which could go to show that while engaging the services of the petitioner, as foreman, either he has been told that his services were to come to an end with the completion of the Project work or that in this regard, there had been specific contract between the parties. In the cross-examination of petitioner (PW-1), he has denied that at the time of his engagement, he had been told that since the company had taken the work, on contract basis, for this reason his services were to be deemed to have come to an end with the completion of the Project work. I may mention that it is for the employee to show that what was the nature of his engagement/employment. In the instant case, from the statement of petitioner as PW-1, it is clear

that he had not been told by the respondent no.1 that his services were for a specific period or that the same were to be deemed to have come to an end on the completion of the Project work. When, from the evidence, led by petitioner (PW-1), it comes on record that his services were not for a specific period/contractual basis then it was obligatory upon the respondents, particularly respondent no.1, to have brought, on record, document/appointment letter as per which the petitioner had been allegedly engaged for a specific period i.e. till the completion of Project work or that his such engagement was contractual for a specific period. As already stated above, from Ex. PB, it is proved that the petitioner had been working with respondent no.2 before his services were terminated or allegedly he left the job, on his own. The petitioner could have joined respondent no.2 only if he had been transferred by respondent no.1 from Kinnaur to Barotiwala. In his evidence, the petitioner (PW-1) has stated that neither he had been given any notice nor paid retrenchment compensation. He also proved, on record, that in each calendar year, he had completed 240 days. Thus, his disengagement, from service, has to be considered as retrenchment as defined under section 2(oo) of the Act.

17. On behalf of respondents reliance has been placed on Ganga Kishan Sahakari Chini Mills Ltd. Vs. Jai Veer Singh (2007) 7 SCC 748, in which it has been held that it was upon the employee (petitioner) to prove the nature of his appointment but as I have already stated that the petitioner, from his own evidence, has discharged his onus to prove that when he was engaged/appointed, it had not been told to him that his services were being engaged for a specific or stipulated period and that the same were to come to an end after the completion of the Project work. It has also been observed by me that to rebut such evidence of the petitioner, (PW-1), the respondents have not produced any such document/contract which could go to show that at the time of engagement of the petitioner, he had been told that his services were to come to an end on the completion of the Project work or that in this regard, there had been any contract between the parties. Since, the services of the petitioner had been retrenched without notice and retrenchment compensation, the same are in violation of the Provisions of the Act.

18. Now, the question arises as to what service benefits, the petitioner is entitled to. The petitioner has led evidence that he was appointed in the month of August, 1996 and continued to do work with respondent no.1 at Kinnaur till July, 2004 and that on 23.7.2004, he was transferred to respondent no.2 at Barotiwala where he worked till 11.10.2004 and that on 12.10.2004, his services were terminated, without notice and retrenchment compensation. Here, I would like to point out that from the evidence of the petitioner (PW-1), it is revealed that at Jhakri (Kinnaur) where the petitioner had been working with respondent no.1, no work is underway. Having regard to all the facts and circumstances of the case, I am of the view that instead of ordering the reinstatement of the petitioner, it would be in the interest of justice, if, he is awarded lump sum compensation. The Hon'ble Supreme Court in Santosh Kumar Seal and others reported in 2010 LLR 677: 2010 III CLR 17 SC, has held that : relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure and that mandatory compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate.

19. In Jagbir Singh Vs. Haryana State Agricultural Marketing Board (2009) 15 SCC 327, the Hon'ble Supreme Court has held that:

“It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is not automatic and maybe wholly inappropriate in a given fact situation even though

the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice. “

20. The petitioner has led evidence that he was getting Rs. 8,200/- per month as salary. No such document has been produced by the respondents in order to rebut his such evidence. It has also come on record that respondent no.1 is not carrying out any work at Jhakri (Kinnaur). Taking into account all the facts and circumstances of the case, the ends of justice would meet if the compensation in lieu of back wages and other service benefits is awarded to the petitioner. In my view, he (petitioner) is entitled to receive a suitable, appropriate, just and equitable compensation from the respondents and it would be quite reasonable and justified if the petitioner is awarded lump sum compensation of Rs. 1.50,000/- (one lakh fifty thousand only) instead of reinstatement. Consequently, my answer to issue no.1 is in “yes”, it is accordingly to issue no.2.

Issue no.3.

21. An objection has been taken by the respondent no.1 that the claim which has been filed before this Court, by the petitioner, is not maintainable. I may mention that consequent upon the reference which was made to this Court, by the appropriate government, the petitioner filed his statement of claim. Since, the reference, which has been made to this Court, is required to be answered, it cannot be said that the claim petition, which has been filed by the petitioner, consequent thereupon, is not maintainable. Thus, I hold it to be maintainable and my answer to this issue is in “No”.

Issue no.4.

22. Respondent no.2 has taken an objection that this petition is bad for mis-joinder of parties. It is to be noted that from the reply Ex. PB, which had been filed by respondent no.2 to the demand notice Ex. PA, it is apparent that the petitioner had been given several warnings and that on his own, he had left the job. From this reply, which has been admitted to be correct by RW-1 (Hem Chand Sharma), it is proved that petitioner had been working with respondent no.2, before his services were terminated. In these circumstances, it cannot be said that this petition is bad for misjoinder of parties. By holding so, my answer to this issue is in “no”.

Issue no.4-A.

23. Section 2(s) of Industrial Disputes Act, 1947 reads as under: “workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
- (ii) who is employed in the police service or as an officer or other employee of a prison; or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached

to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

The aforesaid provision of law makes it clear that a person who is employed in Supervisory capacity will not be treated as a workman. The petitioner while appearing in the witness box as PW-1, has stated that he was getting Rs. 8,200/- per month. It has been admitted by RW-1 (Hem Chand Sharma) that the petitioner had been engaged as casual laborer. Moreover, no such evidence has been led by the respondents that the petitioner was doing his work in a supervisory capacity. According to the petitioner, he had been engaged as foreman. Thus, there is no material, whatsoever, on record, which could go to show that the petitioner, at the relevant time, was not a workman. Accordingly, my answer to this issue is in "no".

Relief.

As a sequel to my findings on the aforesaid issues, the claim of the petitioner is allowed and as such the respondent no.1 is directed to pay Rs. 1,50,000/- (Rs. One lakh fifty thousand only), as lump sum compensation to the petitioner within two months from today failing which the same shall carry interest @ 9% per annum. The reference is answered accordingly. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today on this 17th day of July, 2014.

(A.S JASWAL),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF A.S JASWAL, PRESIDING JUDGE, HP INDUSTRIAL TRIBUNAL-
CUM- LABOUR COURT, SHIMLA.**

Ref no. 01 of 2007.
Instituted on 2.1.2007.
Decided on 17.7.2014.

Rakesh Kumar S/o Shri Brahma Nand R/o Village Kangota, P.O Tourkhola, Tehsil Sarkaghat, District Mandi, H.P. . .*Petitioner.*

VS.

5. The Managing Director M/s Hem Builders and Colonizers, knifed Building Top Floor Tapri, Tehsil Nichar, District Kinnaur, HP.

6. The Manager, M/s Hem & Noble Biotech Laboratories (P) Ltd., haripur Road, P.O Barotiwala, District Solan, HP. . .*Respondents.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner: Shri Rakesh Manta, Advocate.

For respondents: Shri Surender Saklani, Advocate.

AWARD

The reference for adjudication, is as under:

“Whether the termination of services of Shri Rakesh Kumar S/o Shri Brahamanand workman by the (1) Managing Director M/s Hem Builders and Colonizers, knifed Building Top Floor Tapri, Tehsil Nichar, District Kinnaur, HP (2) The Manager, M/s Hem & Noble Biotech Laboratories (P) Ltd., Haripur Road, P.O Barotiwala, District Solan, HP w.e.f. 12.10.2004 without complying the provisions of the Industrial Disputes Act, 1947 is proper and justified? If not what relief of service benefits and amount of compensation the above aggrieved workman is entitled to?”

2. In nutshell, the case of the petitioner is that respondent no.1 (M/s Hem Builders and Colonizers), is a construction company working with the government undertakings in order to carry out construction works. As far as respondent no.2 (M/s Hem & Noble Biotech Laboratories (P) Ltd.) is concerned, it is its sister unit. On 1.5.2001, he (petitioner) was engaged by respondent no.1, as Mechanic, in transportation business for construction of 1500 MW Nathpa Jhakri Power Project and continuously worked at Kinnaur till 8.7.2004, when his services had been illegally retrenched by an oral order of the management without any reason. Thereafter, he (petitioner) raised demand notice and during conciliation proceedings, he had been transferred from Tapri to second establishment at Barotiwala (respondent no.2). The petitioner had joined his services at Barotiwala with respondent no.2, on 1.9.2004 and continuously worked upto 11.10.2004, on which date he was asked by the Personnel Manager not to come on duty from 12.10.2004, on the plea that they (respondents) had no need of his services. At that time, he had also been asked to take his earned wages for fifteen days, for the month of October, 2004. When his services were orally retrenched, he was receiving Rs. 3500/- per month. In each calendar year, he had completed 240 days. Apart from this, his juniors were also retained by the respondents. Since, his services were terminated without notice and retrenchment compensation, in violation of the provisions of the Industrial Disputes Act, 1947 (hereinafter referred as Act), he deserves to be reinstated along-with all consequential service benefits including back wages.

3. By filing separate reply, respondent no.1 contested the claim of the petitioner on having raised preliminary objections including maintainability. On merits, it has been asserted that the petitioner had been appointed purely on contractual basis for the purpose of the work assigned to the replying respondent in the Nathpa Jhakri Power Project (hereinafter referred as Project) and that his appointment was intended to be coterminus with the completion of the work of Project. The employment of the petitioner came to an end, ispo-facto when the work of the project was over. Thus, his discontinuation, in service, cannot be termed as retrenchment. It is further maintained that while engaging the petitioner, he had been specifically told that his services were purely on contract basis and were to come to an end, with the completion of Project work. Thus, he (petitioner), along with other similar situated employees, was disengaged, as soon as the work, in the Project, was over. It has been denied that the petitioner was receiving Rs. 3500/- per month. Other allegations denied.

4. Respondent no.2, has also contested the claim of the petitioner by raising preliminary objections qua maintainability and bad for misjoinder of parties. On merits, it has been asserted that the replying respondent is not a construction company. In fact, it is a company involved in the business of pesticide formulation and allied activities. The replying respondent has come into existence on 2.7.2003. It has been denied that the petitioner had been engaged by the replying respondent on 1.5.2001. Other allegations denied.

5. By filing rejoinder, the petitioner has asserted that Shri Anmol Sharma was the Managing Director of M/s Hem Builders and Colonizers Ltd., during the period in dispute. In the initial claim, which has been filed by the petitioner, in pursuance of demand notice through authorized representative Shri Ramasrey Prasad, the name of Managing Director Shri Anmol Sharma was mentioned as respondent no.1 but inadvertently it could not be got reflected that he was the Managing Director of Hem Builders and Colonizers. Such omission has been rectified by filing amended memo of parties. As far as respondent no.2 (M/s Hem & Noble Biotech Laboratories (P) Ltd.) is concerned, it is the sister concern of respondent no.1, wherefrom he (petitioner) was transferred on 1.9.2004. Further, the Managing Director of M/s Hem Builders and Colonizers is aware of the fact that the petitioner had been engaged with respondent no.1, 1.5.2001 and continuously worked till 8.7.2004, at Nathpa Jhakri without any break or interruption by completing 240 days in each calendar year. Moreover, the respondents are trying to intermingle both the concerns i.e respondent no.1 & 2, by showing the incorporation of respondent no.2 on 2.7.2003. As a matter of fact, he (petitioner) had joined with respondent no.2 only in the month of September, 2004, after his transfer from Nathpa Jhakri. After his illegal retrenchment, the petitioner has not been gainfully employed. He has also not received salary w.e.f. 7.7.2004, besides other service benefits till date, the detail of which has been given in para 3 of the rejoinder, amounting to total Rs. 6,64,284/-, which amount be got paid to him, from the respondents.

6. On the pleadings of the parties, following issues were framed on 21.11.2008 and an additional issue on 18.7.2011.

15. Whether the termination of services of Shri Rakesh Kumar petitioner by the respondents' w.e.f. 12.10.2004, without complying with the provisions of Industrial Disputes Act, 1947 is improper and unjustified? . . .OPP.

16. If issue no.1 is proved, to what relief of service benefits and amount of compensation, the petitioner is entitled to? . . .OPP.

17. Whether the petition is not maintainable as alleged? . . .OPR.

18. Whether the petition is bad for misjoinder of parties? . . .OPR.

4A. Whether the petitioner is not a workman? . . .OPR

Relief.

7. I have heard Ld Counsel for the parties and have also gone through the record of the case carefully.

8. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue no.1 Yes.

Issue no.2 Entitled to lump sum compensation.

Issue no.3 No.

Issue no.4 No.

Issue no.4A. No.

Relief. Reference answered in favour of the petitioner, per operative part of award.

Reasons for findings

Issue no.1&2.

9. Being interlinked, both these issues are taken up for discussion and decision.

10. It has been specifically pleaded by the petitioner that On 1.5.2001, he had been engaged as mechanic by respondent no.1 and that he worked upto 8.7.2004 at Kinnaur in the Project. His version is further to this effect that on 31.8.2004, he was transferred from the Project (at Kinnaur) to second establishment at Barotiwala (respondent no.2), where he continuously worked up to 12.10.2004, when his services were orally retrenched.

11. Respondent no.1 has come up with a specific plea that the petitioner had been appointed purely on contract basis for the purpose of the work assigned to it (respondent no.1), in the Project at Kinnaur and that his such appointment was to be co-terminus with the completion of work in the said Project. It has further been clarified that while engaging the petitioner, he had been specifically told that his services were purely on contract basis and were come to an end as soon as the work which was Project based, was finished. Thus, according to respondent no.1, the services of the petitioner had not been retrenched.

12. The stand of the respondent no.2 is that neither it had appointed the petitioner nor there is any relationship of employer and employee between the parties.

13. While appearing in the witness box as PW-1, the petitioner has stated that initially, he had been engaged as mechanic on 1.5.2001, in M/s Hem Builders and Colonizers at Jhakri on a fixed salary of Rs. 3500/- per month and worked continuously till 8.7.2004. Thereafter, he was removed/retrenched by respondent no.1. He served demand notice upon respondent no.1 and during conciliation proceedings, he was transferred vide letter Ex. PA date 31.8.2004 by it (respondent no.1), from Tapri to Barotiwala with respondent no.2. At Baddi, he had joined on 1.9.2004, where he worked till 12.10.2004. He was terminated without any notice and compensation. He had served demand notice upon the management, which is Ex. PB and it was replied by the respondents vide Ex. PC. Respondent no.2, had also written a letter Ex. PE to Labour Inspector-cum-Conciliation Officer, Baddi, the copy of whereof was supplied to him. Respondent no.1 had also issued certificate Ex. PD in his favour. At present, he is not gainfully employed. While cross-examined on behalf of respondent no.1, he stated that he had been engaged on regular basis but the company (respondent no.1) had not given him any appointment letter. Self explained that at that time, it had been told that the same shall be given later on. The company, in which he was working, had taken the work from another company. They had been doing the work of transportation. Their company, at the relevant time, was working on contract basis. He has got no salary receipt issued by the company. He denied that the company which was Project based/doing contract work, had told the workers that their services would come to an end on the completion of the work. He denied that before letter dated 31.8.2004, he had given in writing that he had no concern with the company. He denied that he has filed a false case. When cross-examined on behalf of respondent no.2, he stated that on 1.5.2004, he had been engaged by respondent no.1, at Jhakri. He was transferred to respondent no.2. He has not brought any document/record in respect of his work/job with respondent no.2 He denied that with respondent no.2, he had never worked.

14. Shri Hem Chand Sharma (RW-1) states that whatever work is being carried out by their company, the same is Project based. In order to do the works which are taken by the respondent company, casual labourers are engaged. Those laburesrs are told that their services

would come to an end after the completion of work. As soon as the work of the Project was completed, the services of the workers stood disengaged. The attendance of the casual labourers is marked at the site and accordingly, they are paid salary/wages. The petitioner had left the job by taking full & final settlement vide Ex. RA In the crossexamination, he stated that he is the Chairman-cum-Managing Director of M/s Hem Builders and Colonizers, which is a private ltd., company. He does not know as to how many workers/employees were working in the said establishment. He admitted that Ex. PA, pertains to Hem Builders and Colonizers but the same (Ex. PA) was not issued by him as it does not bear his signatures. Anmol Sharma is his son. He self explained that there is no concern between M/s Hem Builders and M/s Hem & Noble as both are different entities. He admitted Ex. PC and Ex. PE, were the replies to the demand notice filed before Labour-cum-Conciliation Officer. He denied that Ex. PA and Ex. PD, were issued on the letter pad of M/s Hem Builder and Colonizers. Self explained that the same are fabricated. He cannot say whether the petitioner had been engaged by M/s Hem Builders and Colonizers on 1.5.2001 to 8.7.2004, at Nathpa Jhakri. He does not know that the petitioner had been transferred from Jhakri to Barotiwala where he worked from 1.9.2004 to 14.10.2004.

15. According to RW-1 (Hem Chand Sharma), since the work which had been taken by their company was Project based, the workers who had been engaged were casual and that their services came to an end with the completion of the work. At the time of their engagement, they (workers) had also been told in this regard. His evidence further makes it clear that he is the Director of M/s Hem and Noble (respondent no.2). He expressed his lack of knowledge that the petitioner had been transferred from M/s Hem Builders and Colonizers, at Jhakri (respondent no.1) to M/s Hem and Noble (respondent no.2) and that Ex. PC and Ex. PE are the replies to the demand notice filed before Labour-cum- Conciliation Officer, Baddi. Here, I would like to refer to Ex. PC, it is the reply filed by M/s Hem and Noble (respondent no.2) before Labour Inspector-cum-Conciliation Officer, Baddi consequent upon the demand notice under section 2-A of the Act, which is Ex. PB. From this reply, it is revealed that Rakesh Kumar (petitioner) was working with M/s Hem and Noble (respondent no.2) because as per the same he had been given verbal warnings from time to time as his behaviour and conduct was not satisfactory. Despite that, he failed to improve himself and kept on indulging in various acts of irregularities, inefficiency etc., At last, he took his final wages and did not turn up to join his duties. From the reply Ex. PC, which had been filed by respondent no.2 in response to demand notice Ex. PB, it is quite clear that the petitioner had been issued warnings and that he had also been asked to improve his work and conduct which he failed to do and finally, on his own, he did not turn up to join his duties. This goes to show that as per the reply Ex. PC, the petitioner, on his own, left the work/job of respondent no.2.

16. It has been stated by the petitioner (PW-1) that on 1.5.2001, he had been engaged as mechanic by the respondent no.1 at Jhakri, on fixed monthly salary of Rs. 3500/- and worked continuously till 8.7.2004. Thereafter, his services had been terminated without any notice and retrenchment compensation. Consequent upon demand notice, conciliation proceedings were initiated and during conciliation, he had been transferred from Jhakri to Barotiwala with respondent no.2. He further made it clear that his services had been terminated without any notice and compensation on 12.10.2004. It is true that as per the contention of respondent no.1, the petitioner had been engaged as casual worker in order to do the Project work and that his services were to come to an end with the completion of Project work but in this regard no appointment letter/contract has been brought, on record, which could go to show that while engaging the services of the petitioner, as mechanic, either he had been told that his services were to come to an end with the completion of the Project work or that in this regard, there had been specific contract between the parties. In the cross examination of petitioner (PW-1), he has denied that at the time of his engagement, he had been told that since the company had taken the work on contract basis for this reason his services were to be deemed to have come to an end with the completion of the Project work. I may mention that it is for the employee to show that what was the nature of his

engagement/employment. In the instant case, from the statement of petitioner as PW-1, it is clear that he had not been told by the respondent no.1 that his services were for a specific period or that the same were deemed to have come to an end on the completion of the Project work. When, from the evidence, led by petitioner (PW-1), it comes on record that his services were not for a specific period/contractual basis then it was obligatory upon the respondents particularly respondent no.1 to have brought, on record, document/appointment letter as per which the petitioner had been allegedly engaged for a specific period i.e. till the completion of Project work or that his such engagement was contractual for a specific period. As already stated above, from Ex. PC, it is proved that the petitioner had been working with respondent no.2 before his services were terminated or allegedly he left the job, on his own. It is also proved, on record, that vide Ex. PA dated 31.8.2004, the petitioner had been transferred from Tapri site to Baddi Site. In his evidence, the petitioner (PW-1) has stated that neither he had been given any notice nor paid retrenchment compensation. He also proved, on record, that in each calendar year, he had completed 240 days. Thus, his disengagement, from service, has to be considered as retrenchment as defined under section 2(o) of the Act.

17. On behalf of respondents reliance has been placed on Ganga Kishan Sahakari Chini Mills Ltd. Vs. Jai Veer Singh (2007) 7 SCC 748, that it was upon the employee (petitioner) to prove the nature of his appointment but as I have already stated that the petitioner, from his own evidence, has discharged his onus to prove that when he was engaged/appointed, it had not been told to him that his services were being engaged for a specific or a stipulated period and that the same were to come to an end after the completion of the Project work. It has also been observed by me that to rebut such evidence of the petitioner, (PW-1), the respondents have not produced any such document/contract which could go to show that at the time of engagement of the petitioner, he had been told that his services were to come to an end on the completion of the Project work or that in this regard, there have been any contract between the parties. Since, the services of the petitioner had been retrenched without notice and retrenchment compensation, the same are in violation of the Provisions of the Act.

18. Now, the question arises as to what service benefits, the petitioner is entitled to. The petitioner has led evidence that he was appointed on 1.5.2001 and continued to do work with respondent no.1 at Kinnaur till 8.7.2004 and that on 31.8.2004, he was transferred to respondent no.2 at Barotiwala where he worked till 11.10.2004 and that on 12.10.2004, his services were terminated, without notice and retrenchment compensation. Here, I would like to point out that from the evidence of the petitioner (PW- 1), it is revealed that at Jhakri (Kinnaur) where the petitioner had been working with respondent no.1, no work is underway. Having regard to all the facts and circumstances of the case, I am of the view that instead of ordering the reinstatement of the petitioner, it would be in the interest of justice, if, he is awarded lump sum compensation. The Hon'ble Supreme Court in Santosh Kumar Seal and others reported in 2010 LLR 677: 2010 III CLR 17 SC, has held that : relief by way of reinstatement with back wages is not automatic even if termination of an employee is found to be illegal or is in contravention of the prescribed procedure and that mandatory compensation in lieu of reinstatement and back wages in cases of such nature may be appropriate.

19. In Jagbir Singh Vs. Haryana State Agricultural Marketing Board (2009) 15 SCC 327, the Hon'ble Supreme Court has held that:

“It is true that the earlier view of this Court articulated in many decisions reflected the legal position that if the termination of an employee was found to be illegal, the relief of reinstatement with full back wages would ordinarily follow. However, in recent past, there has been a shift in the legal position and in a long line of cases, this Court has consistently taken the view that relief by way of reinstatement with back wages is

not automatic and maybe wholly inappropriate in a given fact situation even though the termination of an employee is in contravention of the prescribed procedure. Compensation instead of reinstatement has been held to meet the ends of justice. “

20. The petitioner has led evidence that he was getting Rs. 3500/- per month as salary. No such document has been produced by the respondents in order to rebut his such evidence. It has also come on record that respondent no.1 is not carrying out any work at Jhakri (Kinnaur). Taking into account all the facts and circumstances of the case, the ends of justice would meet if the compensation in lieu of back wages and other service benefits is awarded to the petitioner. In my view, he (petitioner) is entitled to receive a suitable, appropriate, just and equitable compensation from the respondents and it would be quite reasonable and justified if the petitioner is awarded lump sum compensation of Rs. 1.00,000/- (one lakh only) instead of reinstatement. Consequently, my answer to issue no.1 is in “yes”, it is accordingly to issue no.2.

Issue no.3.

21. An objection has been taken by the respondent no.1 that the claim which has been filed before this Court, by the petitioner, is not maintainable. I may mention that consequent upon the reference which was made to this Court, by the appropriate government, the petitioner filed his statement of claim. Since, the reference, which has been made to this Court, is required to be answered, it cannot be said that the claim petition, which has been filed by the petitioner, consequent thereupon, is not maintainable. Thus, I hold it to be maintainable and my answer to this issue is in “No”. *Issue no.4.*

22. Respondent no.2 has taken an objection that this petition is bad for mis-joinder of parties. It is to be noted that from the reply Ex. PC, which had been filed by respondent no.2 to the demand notice Ex. PB, it is apparent that the petitioner had been given several warnings and that on his own, he had left the job. From this reply, which has been admitted to be correct by RW-1 (Hem Chand Sharma), it is proved that petitioner had been working with respondent no.2, before his services were terminated. In these circumstances, it cannot be said that this petition is bad for misjoinder of parties. By holding so, my answer to this issue is in “no”.

Issue no.4-A.

23. Section 2(s) of Industrial Disputes Act, 1947 reads as under: “workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

- (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
- (ii) who is employed in the police service or as an officer or other employee of a prison; or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached

to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

The aforesaid provision of law makes it clear that a person who is employed in Supervisory capacity will not be treated as a workman. The petitioner while appearing in the witness box as PW-1, has stated that he was getting Rs. 3500/- per month. It has been admitted by RW-1 (Hem Chand Sharma) that the petitioner had been engaged as casual laborer. Moreover, no such evidence has been led by the respondents that the petitioner was doing his work in a supervisory capacity. According to the petitioner, he had been engaged as mechanic. Thus, there is no material, whatsoever, on record, which could go to show that the petitioner, at the relevant time was not a workman. Accordingly, my answer to this issue is in "no".

Relief.

As a sequel to my findings on the aforesaid issues, the claim of the petitioner is allowed and as such the respondent no.1 is directed to pay Rs. 1,00,000/- (Rs. One lakh only), as lump sum compensation to the petitioner within two months from today failing which the same shall carry interest @ 9% per annum. The reference is answered accordingly. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion be consigned to records.

Announced in the open court today on this 17th day of July, 2014.

(A.S JASWAL),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

आबकारी एवं कराधान विभाग

अधिसूचना

शिमला-2, 22 सितम्बर, 2014

संख्या:ई0एक्स0एन0-एफ0(10)-16/2014.—हिमाचल प्रदेश की राज्यपाल, हिमाचल प्रदेश मूल्य परिवर्धित कर अधिनियम, 2005 (2005 का अधिनियम संख्यांक 12) की धारा 63 की उपधारा(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस विभाग की अधिसूचना संख्या: ई.एक्स.एन.-एफ(5)-4/2005, तारीख 2/12/2005 द्वारा अधिसूचित और राजपत्र, हिमाचल प्रदेश (असाधारण) में तारीख 7/12/2005 को प्रकाशित हिमाचल प्रदेश मूल्य परिवर्धित कर नियम, 2005 का आरै संशोधन करने के लिए निम्नलिखित नियम बनाती हैं, अर्थात्:—

1. **संक्षिप्त नाम और प्रारम्भ.**—(1) इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश मूल्य परिवर्धित कर (चतुर्थ संशोधन) नियम, 2014 है।

(2) ये नियम तारीख 1-10-2014 से प्रवृत्त होंगे।

2. **नियम 74 का संशोधन.**—हिमाचल प्रदेश मूल्य परिवर्धित कर नियम, 2005 (जिन्हें इसमें इसके पश्चात् 'उक्त नियम' कहा गया है) में नियम 74 में, "प्रतिदाय के लिए आवेदन" शब्दों के पश्चात् किन्तु "समुचित निर्धारण प्राधिकारी" शब्दों से पूर्व "मू0प0कर प्ररूप-45 में" शब्द, चिन्ह और अंक अन्तःस्थापित किए जाएंगे।

3. नियम 75 का संशोधन.—उक्त नियमों के नियम 75 में,—

(क) उपनियम (1) के खंड (i) से (iv) के स्थान पर निम्नलिखित खण्ड रखे जाएंगे, अर्थात्:—

- “(i) पांच लाख रुपए से अधिक नहीं है, तो मू० प० कर प्ररूप 45 में आवेदन की प्राप्ति के 30 दिन के भीतर प्रतिदाय मंजूर करने वाले आदेश को अभिलिखित करेगा;
- (ii) पांच लाख रुपए से अधिक है किन्तु एक करोड़ रुपए से अधिक नहीं है, तो वह मामले के अभिलेख को अपनी सिफारिशों सहित सात दिन की अवधि के भीतर, जिला के प्रभारी, यथास्थिति, सहायक आबकारी एवं कराधान आयुक्त या आबकारी एवं कराधान अधिकारी को प्रस्तुत करेगा, जो उसके 60 दिन की अवधि के भीतर आदेश पारित करेगा;
- (iii) एक करोड़ रुपए से अधिक है, तो वह मामले के अभिलेख को अपनी सिफारिशों सहित मू० प० कर प्ररूप 45 में आवेदन की प्राप्ति की तारीख से सात दिन की अवधि के भीतर, जिला के प्रभारी, यथास्थिति, सहायक आबकारी एवं कराधान आयुक्त या आबकारी एवं कराधान अधिकारी को प्रस्तुत करेगा, जो उसे अपनी सिफारिशों सहित पन्द्रह दिन की अवधि के भीतर, यथास्थिति, उप आबकारी एवं कराधान आयुक्त या संबंधित जाने के प्रभारी अधिकारी (उडन दस्तों के सिवाए) को आदेशार्थ प्रस्तुत करेगा, जो 90 दिन की और अवधि के भीतर आदेश पारित करेगा;

और निर्धारण प्राधिकारी खण्ड (ii) और (iii) में उल्लिखित प्रतिदाय मंजूर करने वाले आदेश को केवल क्रमिक खण्ड में विनिर्दिष्ट प्राधिकारियों द्वारा किए गए आदेशों के अनुसार अभिलिखित करेगा; और

(ख) विद्यमान उपनियम (3) के पश्चात् निम्नलिखित नए उप नियम अंतःस्थापित किए जाएंगे, अर्थात्:—

- “(4) जहां विभागीय वेबसाइट के माध्यम से इलैक्ट्रोनिकली किए गए गलत संदाय के कारण, कोई प्रतिदाय प्रोद्भूत होता है, जिसमें या तो अवधि या लेखा शीर्ष या जहां गलत टिन में संदाय जमा किया गया है या समान स्वरूप की त्रुटियां हुई हों, वहां व्यौहारी नए सिरे से इलैक्ट्रोनिकली संदाय करेगा और तत्पश्चात् संबद्ध निर्धारण प्राधिकारी को प्रतिदाय के लिए आवेदन करेगा। निर्धारण प्राधिकारी ऐसे दावे के सम्यक सत्यापन के पश्चात् ऐसे गलत ढंग से किए गए संदाय को व्यौहारी द्वारा इस बावत किए गए आवेदन की तारीख से पन्द्रह दिन के भीतर प्रतिदाय करेगा।
- (5) आयुक्त, उन मामलों की कतिपय संख्या का, जिनमें प्रतिदाय अनुज्ञात किए गए हैं, वहां ऐसे आदेशों की वैधता और औचित्य के, उप—आबकारी एवं कराधान आयुक्त की अध्यक्षता वाले पदाभिहित अधिकारियों के दल द्वारा, परीक्षण के दृष्टिगत या तो मैकेनिकली या कंप्यूटर के माध्यम से संवीक्षा हेतु, चयन करेगा।”।

4. नए मू० प० कर प्ररूप 45 का अंतःस्थापन.—उक्त नियमों से संलग्न विद्यमान प्ररूप मू० प० कर-44 के पश्चात् निम्नलिखित नया प्ररूप “मू० प० कर प्ररूप-45” अंतःस्थापित किया जाएगा, अर्थात्:—

"मू0 प0कर प्ररूप-45

(नियम 75 देखें)

हिमाचल प्रदेश मूल्य परिवर्धित कर अधिनियम, 2005 की धारा 28 के अधीन प्रतिदाय हेतु प्ररूप सेवा में,

निर्धारण प्राधिकारी,

जिला:

मैं/हम, एतद्वारा, कर के प्रतिदाय हेतु निम्नलिखित व्यौरे के अनुसार आवेदन करता हूं:—

व्यौरे यथा निम्नलिखित है :

1. व्यौहारी का नाम
2. कारबार के स्थान का पता
3. टिन
4. विधिमान्यता की तारीख.....दायित्व की तारीख.....
5. हकदारी प्रमाणपत्र, यदि कोई हो
6. बैंक खाते के व्यौरे, जिसमें प्रतिदाय चाहा गया है
 - (i) बैंक का नाम
 - (ii) शाखा
 - (iii) खाता संख्या.....आई.एफ.एस. सी. कोड.....
7. दाखिल की गई विवरणियों का स्वरूप मासिक/त्रैमासिक
8. दावाकृत प्रतिदाय की रकम और उसका आधार.....
.....
.....
9. अब तक दावाकृत प्रतिदाय की रकम

से	तक
रकम (रुपए)	

10. पूर्ववर्ती वर्ष के दौरान संदत कर.....

11. व्यौहारी या उसके प्राधिकृत अभिकर्ता, जिसके साथ संपर्क किया जाना है, का नाम और पता तथा दूरभाष नम्बर:—

(i) नाम	
(ii) एस टी डी कोड सहित	
दूरभाष नम्बर	
(iii) मोबाइल नम्बर	
(iv) ई-मेल पता:	

प्रमाणित किया जाता है कि मेरे/हमारे द्वारा हिमाचल प्रदेश मूल्य परिवर्धित कर अधिनियम, 2005 या केन्द्रीय विक्रय कर अधिनियम, 1956 के अधीन कोई बकाया रकम देय नहीं है। ऊपर कथित प्रतिदाय को न तो यथास्थिति अग्रणीत किया गया है न ही मेरे/हमारे द्वारा पश्चात्पूर्व पूर्ववर्ती अवधियों में समायोजित किया गया है।

ऊपर दी गई विशिष्टियां मेरी सर्वोत्तम जानकारी और विश्वास के अनुसार सत्य है और मैं, एतद्वारा, वचनबंध हूँ कि यदि मेरे/हमारे द्वारा निर्धारण वर्ष.....के लिए.....रुपए का दाखिल किया गया प्रतिदाय दावा झूठा या गलत पाया जाता है, तो मैं/हम सक्षम प्राधिकारी द्वारा यथा अवधारित ब्याज और शास्ति सहित रकम को वापिस करने के लिए आबद्ध हूंगा/होंगे। मैं/हम यह अतिरिक्त वचनबंध करता हूँ/करते हैं कि ऐसी रकम का संदाय करने में मेरी विफलता की दशा में विभाग को हिमाचल प्रदेश मूल्य परिवर्धित कर अधिनियम, 2005 के उपबंधों के अधीन ऐसी किसी रकम की वसूली करने का अधिकार होगा।

तारीख:

स्थान:

आवेदक का नाम और हस्ताक्षर ।”।

आदेश द्वारा,
प्रधान सचिव (आबकारी एवं कराधान)।

[Authoritative English text of Government Notification No.EXN-F(10)-16/2014 dated 22/09/2014 as required under clause (3) of Article 348 of the Constitution of India.]

EXCISE AND TAXATION DEPARTMENT

NOTIFICATION

Shimla-2, the 22nd September, 2014

No.EXN-F(10)-16/2014.—In exercise of the powers conferred by sub-section (1) of section 63 of the Himachal Pradesh Value Added Tax Act, 2005 (Act No 12 of 2005) the Governor of

Himachal Pradesh is pleased to make the following rules further to amend the Himachal Pradesh Value Added Tax Rules, 2005 notified by this department notification No.EXN-F(5)-4/2005 dated 2nd December, 2005 and published in the Rajpatra, Himachal Pradesh (Extra ordinary) dated 7th December, 2005, namely:—

1. Short title and commencement.—(1) These rules may be called the Himachal Pradesh Value Added Tax (4th Amendment) Rules, 2014.

(2) They shall come into force with effect from 1.10.2014.

2. Amendment of rule 74.—In the Himachal Pradesh Value Added Tax Rules, 2005 (hereinafter referred to as the ‘said rules’), in rule 74, after the words “appropriate Assessing Authority” the words, figures and signs “ in Form VAT-XLV ” shall be inserted.

3. Amendment of rule 75.—In rule 75 of the said rules,—

(a) in sub-rule(1), for clauses(i) to (iv), the following clauses shall be substituted, namely:—

“(i) does not exceed five lakh rupees, record an order sanctioning the refund within 30 days of the receipt of the application in Form VAT-XLV;

(ii) exceeds five lakh rupees but does not exceed one crore rupees, he shall submit the record of the case within a period of 07 days together with his recommendations to the Assistant Excise and Taxation Commissioner or Excise and Taxation Officer In-charge of the district, as the case may be, who shall pass the order within a period of 60 days thereof;

(iii) exceeds one crore rupees, he shall submit the record of the case within a period of 07 days from the date of receipt of application in Form VAT-XLV together with his recommendations to the Assistant Excise and Taxation Commissioner or the Excise and Taxation Officer In-charge of the District, as the case may be, who shall submit the same alongwith his recommendations within a period of 15 days to the Deputy Excise and Taxation Commissioner or officer In-charge of the zone(except flying squads) concerned, as the case may be, for orders who shall pass orders within a further period of 90 days;

and the Assessing Authority shall record the order sectioning the refund mentioned in clauses(ii) and (iii) only in accordance with the orders made by authorities specified in respective clause; and

(b) after existing sub-rule(3), the following new sub-rules, shall be inserted, namely:—

“(4) where any refund accrues on account of erroneous payment made electronically through the departmental website wherein either the period or the head of account or where payment is credited into incorrect TIN or errors of similar nature, the dealer shall make the payment afresh electronically and thereafter apply for refund to the Assessing Authority concerned. The Assessing Authority shall after due verification of such claim, refund such erroneously made payment within 15 days of the date of application made by the dealer in this regard.

- (5) the Commissioner shall select certain number of cases wherein refund have been allowed, for scrutiny either mechanically or through computers with a view to examine legality and propriety of such orders by a team of designated officers headed by Deputy Excise and Taxation Commissioner.”.

4. Insertion of new Form VAT-XLV.—After existing Form VAT-XLIV appended to the said rules, the following new Form “Form VATXLV” shall be inserted, namely:—

“FORM VAT-XLV
(see rule 75)

Form for refund under section 28 of the Himachal Pradesh Value Added Tax Act, 2005.

To

The Assessing Authority,
District:

I/we, do hereby apply for refund of tax as per the details given below:—

The details are as under:

1. Name of the dealer
2. Address of place of Business
3. TIN
4. Date of validity Date of liability
5. Entitlement Certificate if any
6. Details of bank account in which refund sought
 - (i) NAME OF BANK
 - (ii) BRANCH
 - (iii) ACCOUNT NUMBER IFSC CODE
7. Nature of returns filed monthly/quarterly
8. Amount of refund claimed and basis of that.....
.....
.....
9. Amount of refund claimed so far:—

From	To
Amount (Rs)	

10. Tax paid during the previous year.....

11. Name and address and phone No. of the dealer or his authorized agent with whom contact is to be made :—

(i) Name	
(ii) Telephone No. with STD code	
(iii) Mobile number	
(iv) E-mail id	

This is to certify that there are no outstanding dues against me/us either under the Himachal Pradesh Value Added Tax Act, 2005 or the Central Sales Tax Act, 1956. The above said refund is not carried forward or as the case may be adjusted by me/us to any subsequent previous periods.

The particulars given above are true to the best of my knowledge and belief and I do hereby undertake that in case the refund claim filed by me/us for Rs..... for the assessment year is found false or incorrect I/we shall be bound to repay the amount along with interest and penalty as determined by the competent authority. I/we further undertake that in the event of my failure to pay such amount the department shall have the right to recover any such amount under the provisions of the Himachal Pradesh Value Added Tax Act, 2005.

Date:

Place:

Name and signature of applicant.”.

By order,
Principal Secretary (E&T).

**OFFICE OF THE MUNICIPAL COUNCIL, SHRI NAINA DEVI JI, DISTRICT
BILASPUR (HP) -174310**

NOTIFICATION

Shri Naina Devi Ji, the, 22nd September, 2014

No.19 MCND/2012-13.—In exercise of the powers vested under section 66 of the Himachal Pradesh Municipal (Amendment) Act, 2011(Act No. 13 of 2011) Municipal Council Shri Naina Devi Ji do hereby impose the Bus Adda Fees on all the Buses/Trucks (in other words all the heavy vehicles) entering in the Bus Adda premises situated above and alongside the Multi storeyed Parking being constructed by the Municipal Council Shri Naina Devi Ji @ Rs. 25.00 per round/trip as approved by The Municipal Council vide resolution No. 255 dated 5th March, 2014 and published in the Rajpatra, Himachal Pradesh (ordinary) for the information of general public. This notification supersedes the previous notification dated 27th August, 2014 notified in Rajpatra, Himachal Pradesh digitally published on 28.08.2014.

By order,
Sd/-
Executive Officer Municipal Council,
Shri Naina Devi Ji.

बहुउद्देशीय परियोजनाएँ एवं विद्युत विभाग

अधिसूचना

तारीख: 21 जुलाई, 2014

संख्या : विद्युत-छ: (5)-20/2013.—यतः हिमाचल प्रदेश के राज्यपाल को यह प्रतीत होता है कि राष्ट्रीय जल विद्युत परियोजना निगम समिति (एन० एच० पी० सी०), जो कि भूमि अर्जन अधिनियम 1894 (1894 का पहला अधिनियम) की धारा 3 के खण्ड (सी.सी.) के अन्तर्गत सरकार के स्वामित्व और नियन्त्रण के अधीन एक निगम है के द्वारा अपने व्यय पर सार्वजनिक प्रयोजन हेतु नामतः मौजा मौखरी ह०न० (149) में चमेरा पावर स्टेशन—III की सर्च साफ्ट से हुये पानी के रिसाव से क्षतिग्रस्त होने पर भूमि अर्जित करनी अपेक्षित है अतएव एतद्वारा यह घोषित किया जाता है कि उक्त परिक्षेत्र में जैसा कि विवरणी में निर्दिष्ट किया गया है को उपरोक्त प्रयोजन के लिए भूमि का अर्जन अपेक्षित है।

2. भूमि अर्जन अधिनियम 1894 की धारा 6 के उपबन्धों के अधीन इससे सम्बन्धित सभी व्यक्तियों की सूचना हेतु घोषणा की जाती है और उक्त अधिनियम की धारा 7 के उपबन्धों के अधीन भू-अर्जन समाहर्ता, चमेरा जल विद्युत परियोजना, करियां, चम्बा, जिला चम्बा (हि.प्र.) को उक्त भूमि के अर्जन के लिए आदेश लेने का एतद्वारा निर्देश दिया जाता है।

3. भूमि का रेखांक भू-अर्जन समाहर्ता, चमेरा जल विद्युत परियोजना, करियां, चम्बा, जिला चम्बा (हि.प्र.) के कार्यालय में निरीक्षण किया जा सकता है।

विवरणी

जिला	तहसील	ग्राम/मौजा	खसरा नम्बर	रकबा (बीघों में)
चम्बा	चम्बा	मौखरी	225	0-4-0
		(149)	256/1	0-0-18
			282	0-1-0
			292	0-3-0
			296	0-3-0
			323	0-3-0
			332	0-6-0
			334	0-8-0
			339	0-1-0
			359	0-5-0
			361	0-8-0
			366	0-19-0
			248	0-2-0
			254	0-5-0
			599/265	0-6-0
			288	0-15-0
			293	0-17-0
			297	0-7-0
			300	0-5-0
			305	2-0-0
			306	5-15-0

310	0-5-0
312	0-3-0
324	0-10-0
326	0-7-0
328	0-5-0
335	0-5-0
368	0-3-0
369	0-11-0
538 / 378	0-1-0
389	0-2-0
256	0-4-0
258	0-5-0
277	0-5-0
283	0-0-15
286	0-4-0
314	0-9-0
341	1-1-0
348	0-2-0
367	0-16-0
360	0-1-0
320	0-2-0
331	0-6-0
375	0-0-8
376	0-2-0
343	0-3-0
267 / 1	0-12-0
301	0-5-0
316	1-1-0
260	0-3-0
266	0-4-0
311	0-3-0
313	0-3-0
325	0-4-0
330	0-3-0
342	0-3-0
597 / 263	0-2-0
274	0-0-6
280	0-3-0
295	0-4-0
299	0-5-0
309	0-4-0
321	0-5-0
324 / 1	0-4-0

347	0-0-15
352	0-0-19
370	0-2-0
371	0-3-0
209	0-7-0
589 / 210	1-12-0
214	0-11-0
216	3-12-0
217	0-19-0
218	0-9-0
289	0-3-0
337	0-16-0
357	0-3-0
244	0-1-0
219	7-14-0
229	0-4-0
230	0-2-0
593 / 255	0-14-0
259	0-17-0
600 / 267	0-17-0
273	1-0-0
278	0-5-0
279	0-1-0
285	0-11-0
364	0-2-0
365	0-10-0
372	0-13-0
577 / 374	0-10-0
345	0-0-12
223	1-0-0
275	0-0-18
287	0-19-0
294	0-14-0
298	0-0-13
307	1-11-0
317	0-4-0
318	0-4-0
319	0-3-0
322	1-9-0
327	0-4-0
336	0-7-0
350	0-0-9
333	0-11-0

358	0-4-0
355	0-4-0
221	1-8-0
222	3-3-0
257	0-5-0
595 / 262	0-8-0
270	0-6-0
276	0-3-0
281	0-0-18
290	0-12-0
291	0-15-0
302	0-19-0
303	2-14-0
315	0-11-0
344	0-1-0
245	0-0-9
246	0-1-0
304	3-6-0
338	0-9-0
338 / 1	0-3-0
591 / 252	0-0-8
576 / 374	0-1-0
308	2-17-0
531 / 242	0-1-0
584 / 534	0-2-0
533 / 381	0-1-0
578 / 382	0-1-0
572 / 390	3-18-0
356	0-4-0
384	0-6-0
385	0-19-0
587 / 579	6-15-0
251	0-0-14
250	0-2-0
354	1-17-0
353	0-9-0
346	1-14-0
351	0-1-0

किता- 145

रकवा तादादी 90-06-02

आदेश द्वारा,
हस्ता0/-
प्रधान सचिव (विद्युत)।

Before the Sub-Divisional Magistrate, Solan, District Solan, Himachal Pradesh

In the matter of :

Shri Prince Kashyap s/o Shri Ashok Kumar, r/o 17, W. No. 3, B. No. 5, MC Solan, Tehsil and District Solan, Himachal Pradesh .. *Applicant.*

Versus

General Public

.. *Respondent.*

Whereas, applicant Shri Prince Kashyap s/o Shri Ashok Kumar, r/o 17, W. No. 3, B. No. 5, MC Solan, Tehsil and District Solan, Himachal Pradesh has submitted an application before the undersigned for entry of his name Prince Kashyap in the E. O. M. C. Solan, District Solan record, as his name entered in E. O. M. C. record as Rajkumar which is wrong.

The general public of the concerned area is hereby called upon to file objection, if any, regarding entry of “name Prince Kashyap” in the E. O. M. C. Solan record in writing to this office. The objections should reach this office on or before 16th October, 2014 positively, otherwise necessary order will be passed to enter his name in the concerned office.

Seal.

Sd/-
*Sub-Divisional Magistrate,
Solan, District Solan, Himachal Pradesh.*